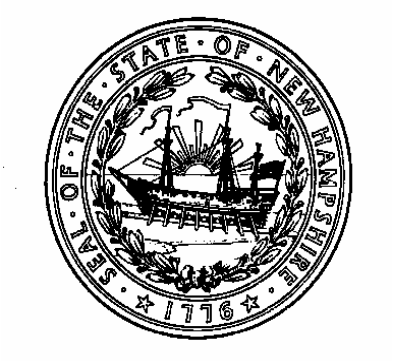
STATE OF NEW HAMPSHIRE



GOVERNOR'S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE

OFFICE OF THE ATTORNEY GENERAL

SEXUAL ASSAULT: A PROTOCOL FOR LAW ENFORCEMENT RESPONSE AND INVESTIGATION OF ADULT SEXUAL ASSAULT CASES

Reprinted 2004

“This project was supported by Grant No. 2001WFBX0007 awarded by the Bureau of Justice Assistance, Office of Justice Programs, US Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of Justice.”

FIRST RESPONDER CHECKPOINTS

Initial Report/Response

- **Dispatcher or Intake Officer should:**
  - ♦ Obtain caller's/victim's FULL information (Name, address, phone, location, etc.)
  - ♦ Obtain the location of the assailant and clothing descriptors if applicable
  - ♦ Dispatch Officer or Detective to the scene immediately and others to the area if applicable

- **First Responder should:**
  - ♦ **Consider the safety of the victim FIRST**
    - Provide medical care/first aid if applicable
    - Transport to medical facility or call ambulance if applicable
    - Contact local crisis center to meet the victim at the hospital
    - Facilitate immediate medical exam in all cases
    - Provide for the immediate security of the victim

  - ♦ **Obtain suspect information:**
    - Name if known
    - Home and work phone numbers and addresses
    - Direction of travel and by what means
    - Physical description of suspect
    - Broadcast that information to other units if applicable
    - Consider K9 for tracking/location of suspect if applicable

  - ♦ **Conduct an initial BRIEF interview of the victim:**
    - Use language appropriate to the sensitivity of the investigation
    - Determine the location of the actual crime scene
    - Determine if weapons were used
    - BASIC and BRIEF description of what happened
    - Obtain the names/addresses/phone numbers of potential witnesses

  - ♦ **Evaluate Evidence Issues:**
    - Victim's clothing
    - Bedding
    - Crime scene photos
    - 911 tapes
    - Other evidence from the crime scene if applicable

  - ♦ **Call for support services (victim advocates, counselors):**
    - Family members or friends may be contacted at the discretion of victim

  - ♦ **Secure the scene for Secondary Investigators/Detective if applicable**

PREFACE

Reports of sexual assaults against adults have continued to increase throughout the past decade. Although no one knows for certain how many actual assaults take place each year, it is estimated that 683,000 adult forcible sexual assaults occur in the United States each year. According to the *Rape in America: A Report to the National, 1992* 84% of sexual assaults are committed by an acquaintance of the victim. Sexual assault is the most under-reported crime in this country with an estimated two-thirds of these cases going unreported. Some victims still choose not to report the assault because of embarrassment or potential fear. Others lack faith in the follow-up treatment and in the investigative, prosecutorial, and judicial systems.

Traditionally, the successful prosecution of sexual assault cases has been difficult. The first contact that many victims have is with a law enforcement officer, and a sensitive, non-judgmental response can set the tone for how a case progresses. Since the victim is often the only witness to the crime, a thorough investigation of the case is critical to substantiate an allegation or to help strengthen a case for court. By its very nature, sexual assault has a profound effect on the victim, both physically and emotionally. Sexual assault investigations require the most sensitive and delicate handling if the complete details of the crime and the description and modus operandi of the perpetrator are to be obtained. Without the full cooperation of the victim, it is usually impossible to successfully prosecute the crime.

The primary objectives of this document are:

- To establish guidelines for the successful investigation of the crime and response of adult sexual assault cases.
- To minimize the physical and psychological trauma to the victim of a sex crime.
- To encourage a professional response to the crime of sexual assault with sensitive and competent attention paid to the needs of the victim.
- To assist in the speedy apprehension and conviction of the perpetrator of sexual assault.

For the purpose of this protocol, all victims will be referred to as “she,” although sexual assault is a crime that affects males as well as females.

HISTORY OF THE NEW HAMPSHIRE SEXUAL ASSAULT PROTOCOL PROJECT

On April 26, 1988, the New Hampshire Legislature passed a law, which made the State responsible for the payment of forensic medical examinations of sexual assault victims who report the crime when there is no insurance coverage. See Appendix A. It also authorized the New Hampshire Attorney General's Office to establish a standardized sexual assault protocol and evidence collection kit to be used by all examiners and hospitals in the State.

The New Hampshire Attorney General's Office formed the Sexual Assault Protocol Committee representing the medical, legal, law enforcement, victim advocacy and forensic science communities, to establish a New Hampshire protocol and kit. The Committee adopted a model United States Department of Justice Protocol as the framework for the New Hampshire Sexual Assault Protocol, with amendments that accommodated the specific needs of the professionals and facilities within New Hampshire. Great care was taken to make recommendations based upon the physical and emotional needs of the sexual assault victim, reasonably balanced with the basic requirements of the legal system. This Project was completed in June 1989 and it became a model for the United States Department of Justice for implementation in other states.

In 1997, the original Protocol was revised and updated and the second edition was introduced in September 1998. The success of the medical protocol led to the formation of a Committee in 1999 to develop a Protocol to establish guidelines for the successful response and investigation by law enforcement of the crime of sexual assault against adults. This protocol is the result of that effort. For the handling of investigations of child sexual abuse cases, please refer to the *Attorney General's Task Force on Child Abuse and Neglect Law Enforcement/DCYF Protocol.*

The Committee encourages duplication and distribution of this Protocol to further enhance and standardize investigations of adult sexual assault cases and to reduce the trauma experiences by victims.

NEW HAMPSHIRE SEXUAL ASSAULT LAW ENFORCEMENT PROTOCOL COMMITTEE

Chair: Sandra Matheson, Director
State Office of Victim/Witness Assistance
Attorney General's Office

Kathy Beebe, Training Coordinator
NH Coalition Against Domestic and Sexual Violence

Sgt. Mark Cavanaugh
Salem Police Department

Lt. Janet Champlin
Portsmouth Police Department

Patty Crooker
Formerly of Rape and Assault Support Services

Chief Nicholas Halias
University of New Hampshire Police Department

Imogene Hayes Brodsky
Rape and Assault Support Services

Bonnie Herrick
Sexual Assault Support Services

Kevin McMahon, MS
Criminalist
NH State Police Forensic Laboratory

Deputy Chief James Mulligan
Nashua Police Department

Monique Simone
Sexual Assault Support Services

Officer Greg Taylor
Concord Police Department

Det. David A. Terlemezian
Dover Police Department

Jennifer Weeks, RN
NH Sexual Assault Nurse Examiner (SANE) Coordinator

Chief David Wheeler
Hopkinton Police Department

TABLE OF CONTENTS

APPENDICES

PURPOSE STATEMENT

It is New Hampshire's expectation that its law enforcement personnel will respond professionally and appropriately to sexual assault crime reports. All sexual assault victims should be treated with respect and appropriate attention be given to their emotional and physical needs. The decision by the victim not to follow through on prosecution should not cause an automatic assumption that the sexual assault did not occur. Each officer should conduct an investigation based on the facts presented. Interviews should be conducted utilizing appropriate techniques, which are especially designed for sexual assault cases. Evidence should be properly identified, collected and preserved. Efforts should be made to work closely with the team of professionals involved in these cases such as victim advocates, prosecutors, medical professionals, and court professionals. Efforts should be directed toward the successful prosecution of sex offenders and respectful and sensitive treatment of victims.

PROTOCOL COMPONENTS

In order to achieve an effective successful response to sexual assaults, it is recommended that law enforcement personnel utilize and promote the following goals and procedures.

INTERAGENCY COOPERATION

Interagency cooperation is a goal that requires a teamwork approach. Coordination of law enforcement, medical, court, laboratory personnel, social service and victim advocacy agencies is necessary for a thorough response to a sexual assault. All efforts will be made to develop and maintain interagency cooperation in responding to sexual assault.

TRAINING

Sexual assault is a complex crime that requires interdisciplinary, sophisticated intervention. It is critical that any law enforcement officer who handles a sexual assault or abuse case be properly trained to do so. Recommended training should include sexual assault laws, offender motivation, victim responses, interview techniques, investigative strategies, evidence recognition and collection, and interrogation techniques. As with any profession, continuing education and skill-enhancement is critical for the development of expertise. It is advantageous if law enforcement professionals, both veterans and recruits, participate in ongoing education seminars.

SEXUAL ASSAULT - DEFINITION

"Rape" is not a legal term in New Hampshire. The crime is classified as "Sexual Assault". Under RSA 632-A, there are three levels of sexual assault:

Aggravated Felonious Sexual Assault (RSA 632-A: 2) is defined as sexual penetration, however slight, into any opening (vagina, mouth or anus) against a person's will (without consent) or when the victim is physically helpless to resist. It is considered to be a felony punishable by up to 10 to 20 years in the state prison. A person is also guilty of Aggravated Felonious Sexual Assault without penetration when he or she touches the genitalia of a person under the age of 13 for the purpose of sexual gratification or arousal.

Felonious Sexual Assault (RSA 632-A: 3) is often referred to as the "statutory rape law" involving relations with a victim between the ages of 13 and 16. The legal age of consent in New Hampshire is 16. Felonious sexual assault also includes sexual contact, short of penetration, which causes serious personal injury or sexual contact with a person under 13 years of age. It is a class B felony, and punishable by 3 1/2 to 7 years in the state prison.

Sexual Assault (RSA 632-A: 4) is sexual contact with a person 13 years or older for the purpose of sexual gratification. It is a misdemeanor punishable by up to one year in the House of Corrections.

BARRIERS TO REPORTING

It is estimated that only 16% of all sexual assaults are ever reported to law enforcement and that over 50% of sexual assault victims will be under the age of 18. The response of law enforcement is key to improving this reporting rate.

It is widely accepted that the reported sexual assaults represent only the tip of the iceberg, and the compilers of the Uniform Crime Report have cautioned, "even with the advent of rape crisis centers and an improved awareness by police in dealing with rape victims, forcible rape is still recognized as one of the most underreported of all index crimes. Victim's fear of their assailants and their embarrassment over the incidents are just two factors that can affect their decisions to contact law enforcement" (FBI, 1982, p. 14). In addition to these impediments to reporting, the victim who is unaware that a sexual assault qualifies as a crime or fears that the police will not believe her has little likelihood of reporting.

Common reasons why sexual assault crimes are not reported:

Fear: Fear may account for a victim's failure to disclose her experience. The victim may fear retribution by the assailant, the stigma of being a sexual assault victim, or being blamed for provoking the assault.

Negative expectations: A victim may have encountered negative responses in earlier attempts to disclose to family, friends or police. If earlier attempts were met with disbelief, silence, or victim blame, the victim may be reluctant to bring the sexual assault up again.

Sexual Assault is unacknowledged: A victim may not perceive herself as having been sexually assaulted, especially if the victim is in a relationship or married to the perpetrator, or perhaps the perpetrator is another family member, although she has had an experience defined as sexual assault by the law.

The key to assisting sexual assault victims is realizing that sexual assault is not about sex but about power and control. Perpetrators typically target those who are most vulnerable. It is important that this factor not be relayed to the victim as contributing to the sexual assault. Knowing how difficult it is to report the crime, perpetrators often rely on the probability that the vic`tim will not be believed.

National research has determined several reasons a victim of sexual assault might not report the crime (*Rape in America: A Report to the Nation, 1992*).

- Shame
- Fear of telling anyone-even family
- Reliving the experience
- Fear of not being believed
- Fear of retaliation
- Lack of trust in the system
- Loss of control over the process

Adolescent Victims – There are many additional reporting barriers that exist for adolescent sexual assault victims. If adolescents have disobeyed parents in some way prior to the assault, such as breaking curfew, lying about where they were going, or experimenting with drugs or alcohol, they may believe it is their fault or fear getting in trouble and be afraid to disclose to their family or the police. A 16-year old, who is sexually assaulted at a party after sneaking out of her house and consuming alcohol, probably will not report the crime.

Male Victims - Male victims are typically silenced by the societal belief that these crimes only happen to females. In addition to experiencing some of the same concerns about reporting as female victims, male victims may have other barriers to overcome. Many male victims feel particularly disturbed by the fact that they were unable to protect themselves from the assault. If a heterosexual male victim is assaulted by another male, he may fear that others may make assumptions about his sexuality. In the gay male community, if a sexual

assault is reported, the victim may fear that his sexual orientation will need to be disclosed to the police or that he will be publicly “outed”.

RESPONSE

RESPONDING WITH SENSITIVITY TO THE SEXUAL ASSAULT VICTIM

The first contact after a sexual assault is critical to the victim’s recovery. The responding officers can dramatically impact the victim’s ability to accept and respond positively to continued investigative efforts. Sexual assault investigations must focus on the medical care of the victim first and the investigation second.

Only those who have personally suffered the trauma of sexual assault can fully understand the depth and complexity of the feelings experienced by sexual assault victims. The approach of a first responder to sexual assault victims can significantly affect whether victims begin the road to recovery or suffer years of trauma and anguish.

Officers should be aware that their actions as the first responder have a vital impact on the future psychological well-being of the victim. Every effort made to relieve victims’ feelings of shame and/or self-blame, to regain a sense of control of their lives, and to ensure that all victims are treated professionally and with dignity, will enable victims to provide the clearest and most thorough information about the crime.

Sexual assault is one of the only crimes where the act itself - sexual contact - is not a crime. What makes it a crime is the lack of consent. The case often comes down to one person's word against another. In the investigation and prosecution of sexual assault cases, the role of the victim is critical because the victim is usually the sole witness to the crime.

Sexual assault is one of the most traumatic types of criminal victimization. Most crime victims find it difficult to discuss their victimization; sexual assault victims find it especially painful. One reason for this is the difficulty that many people have in talking about such a personal and intrusive experience. A more important reason is that many victims of sexual assault are intensely traumatized, not only by the humiliation of their physical violation, but also by the fear of being severely injured or killed. The first responder should approach the victim in a gentle, supportive manner, bearing in mind the physical and psychological trauma that has been endured.

There is no typical reaction to sexual assault and officers should be prepared for virtually any type of emotional reaction by the victim. The police officer must be able to respond to each victim as an individual, recognizing that no two people will react exactly the same way. The responding officer can expect to witness a range of emotions such as anger,

fear, anxiety, restlessness, tension, crying, smiling in an anxious way, laughing, calmness, or showing little or no emotion.

The way victims of sexual assault cope depends largely on their experiences and the support received immediately following the crime. Because law enforcement officers are often the first professionals to approach the victim, they are in a unique position to help victims cope with the immediate trauma of the crime, and to help restore their sense of security and control over their lives. How law enforcement responds can send a strong message that sexual assault will not be tolerated.

The three primary responsibilities of law enforcement in sexual assault cases are to:

1. Protect, interview, support, and reassure the victim;
2. Investigate the crime and apprehend the perpetrator; and
3. Collect and preserve evidence of the assault that will assist in the prosecution of the assailant.

TIPS FOR RESPONDING TO VICTIMS OF SEXUAL ASSAULT

- Be prepared for virtually any type of emotional reaction by victims. Be unconditionally supportive. Permit victims to express their emotions, which may include crying, angry outbursts, and screaming.

- Avoid interpreting the victim's calmness or composure as evidence that a sexual assault did or did not occur. The victim could be in shock.

- Approach victims calmly. Showing outrage at the crime may cause victims even more trauma.

- Ask victims whether they would like to have a family member or friend contacted.

- Refer the victim to the local crisis center. The crisis center advocate is a support person who the victim can depend upon throughout the entire criminal justice process and beyond. Their support contributes to decreasing the stress of the experience on the victim, gives them the options, resources and information necessary to increase the likelihood that they will feel confident to participate in the process with the least amount of revictimization. This referral should be made whether the sexual assault has just occurred or whether the victim is reporting an assault that occurred some time previously.

- Be careful not to appear overprotective or patronizing.

- Remember that it is normal for victims to want to forget, or to actually forget, details of the crime that are difficult for them to accept.

- Encourage victims to get medical attention, especially to check for possible internal injuries and sexually transmitted infections. In addition, a medical examination can provide evidence for the apprehension and prosecution of the victim's assailant. Keep in mind, however, that victims may feel humiliated and embarrassed that their bodies were exposed during the sexual assault and must be exposed again during a medical examination. Explain tactfully what will take place forensically during the examination and why these procedures are important.

- Notify the hospital of the incoming victim/patient and request a private waiting room. Escort victims to the hospital and provide transportation following the exam, if needed. Make sure that a crisis center advocate is called to the hospital to meet with the victim.

- Be mindful of the personal, interpersonal, and privacy concerns of victims. They may have a number of concerns, including the possibility of having been impregnated or contracting sexually transmitted infections such as the HIV virus; the reactions of their partner, family or friends; media publicity that may reveal their experience to the public; and the reactions and criticism of neighbors and coworkers if they learn about the sexual assault.

- Interview victims with extreme sensitivity. Minimize the number of times victims must recount details of the crime to strangers.

- Offer to answer any further questions victims may have and provide any further assistance they may need.

Adapted from National Sheriff's Association (January 2000). First Response to Victims of Crime (Grant No. 97-VF-GX-0002), Washington, DC: U.S. Dept. of Justice Office of Justice Programs.

THE ROLE OF THE DISPATCHER

The dispatcher may be the first person the victim speaks with after the sexual assault. It is crucial that he or she responds to the call in a calm and supportive manner. The dispatcher should attempt to immediately obtain the following information:

- Determine the initial facts of the situation (including the age and gender of the victim), whether the victim or others are in imminent danger or in need of emergency medical attention, and call for emergency medical assistance as necessary.
- Obtain the name, address, telephone number, location and current status of the victim and the reporting party, if not the victim.
- Explain that the questions being asked will not delay the officer's response to the scene.

- Record and preserve the victim's "excited utterances" and 911 tape for evidentiary purposes.
- Determine whether there is a relationship between the victim and the suspect (e.g., stranger, non-stranger, partner, family member).
- Obtain information to assist in the apprehension of the suspect, including gender, physical description, clothing, vehicle description, etc.
- Determine the suspect's use of or possession of a weapon.
- If the suspect is not present, attempt to determine his location, or possible location, and the likelihood that he may return to the scene or attempt o immediately contact the victim again.

The dispatcher should (consistent with local protocols and procedures):

- Promptly dispatch a patrol officer to the victim's location and to the crime scene (if different).
- Furnish the officer with any available information on the dangerousness of the offender and pertinent specifics about the incident.
- Dispatch an additional unit, if available, to the suspect's residence/location if the assault has just occurred or if the offender has just fled.
- Remain on the line with the victim, if practical, until patrol officers arrive, especially if the victim is alone and wants to stay on the line. If resources do not permit the dispatcher to remain on the line, the victim should be tactfully cautioned against bathing, changing clothes or touching anything at the scene.
- If the dispatcher assesses that the victim is in imminent danger, advise the victim to move to a safe location (e.g., to the home of a neighbor or family friend, a police station, a church) as long as moving can be accomplished safely. Obtain the telephone number where the victim can be reached at the new location.
- NOT cancel the law enforcement response to a sexual violence complaint regardless if the request to cancel is made during the initial call or a follow-up call, but in all cases, the dispatcher should advise the officer of the request.
- Consider the use of the telephone or a scrambled radio frequency if it is necessary to transmit the victim's name or address over the air, because of the probability of citizens with scanners overhearing the call.

INITIAL LAW ENFORCEMENT RESPONSE

The first direct contact of many victims of sexual assault will be with a law enforcement officer. Upon receipt of the call, the responding officer should obtain necessary background information from the dispatcher in order to evaluate the potential for violence at the scene. The primary responsibilities of this officer are to ensure the immediate safety and security of

the victim, to obtain basic information about the assault in order to apprehend the assailant, and to transport the victim to a designated facility for examination and treatment.

The complex evidentiary requirements of a sexual assault investigation, as well as the devastating psychological reaction of the victim, ideally requires the assignment of more than one officer to the initial investigation. These will be identified as the primary and secondary officers. If only one officer responds, he/she will perform the duties of both officers.

Upon arrival, the responding officer should convey the following information to the sexual assault victim:

- The importance of seeking an immediate medical examination, since injuries can go unnoticed or appear at a later time.

- The importance of preserving potentially valuable physical evidence prior to the hospital examination. The officer should tactfully explain to the victim that such evidence could inadvertently be destroyed by activities such as washing/ showering, brushing teeth/using a mouthwash, drinking, smoking and douching.

- The importance of preserving potentially valuable evidence that may be present on clothing worn during the assault or on bedding or other materials involved at the crime scene. The officer should recommend that a change of clothes be brought to the hospital in the event clothing is collected for evidentiary purposes. If not possible, the hospital will provide the victim with a change of clothing.

RESPONDING TO THE SECONDARY VICTIM

It is important to recognize that sexual assault affects everyone involved with the primary victim of the crime. The family and friends of the sexual assault victim are also, in many ways, victims of the sexual assault and may experience feelings similar to the actual victim. Similar to anyone who has been victimized, secondary victims will each react differently and it may be hard to predict their responses.

Parents and/or the partner of the victim often feel guilty because they were unable to protect the loved one from the assault. Some parents and partners are outraged about what has happened and may express a desire to seek out and harm the perpetrator. Some may direct their anger at the victim and blame the assault on whatever she was doing prior to the assault.

Secondary victims often experience a sense of helplessness about their concern for the victim. They want to be able to “fix” the situation and to figure out how to help the victim deal with the trauma that has occurred. Secondary victims often feel out of control, both about the crime that has occurred and about what will happen in the aftermath of the assault.

Secondary victims who are accompanying the victim may have their own questions and/or concerns about the criminal justice process. They may express frustration toward the medical/police personnel at the length of time it takes to complete the exam and interview. The secondary victim may feel left out and unsure as to what is happening to his/her friend/relative.

Depending on the individual issues surrounding the assault, here are some helpful suggestions to give secondary victims:

- **Do not blame the victim** - she needs you to be supportive of her while she is recovering.
- **Do not blame yourself** - the only person responsible for the assault is the perpetrator.
- **If the victim blames you** - remember that you are a safe target for her anger, even when the real anger is directed at the perpetrator.
- **Don't take the law into your own hands** - your own anger and rage will prevent you from being available for the victim, and may result in an unnecessary or undesirable criminal justice response.
- **Understand your own reactions** - you will also have a lot of feelings about your loved one being assaulted.

.

The most important things a secondary victim can do are **believe and reassure the victim, accept her feelings, be there to listen, let her know how you feel and provide support without taking over.**

All crisis centers provide support and services to secondary victims. When contacting the crisis center to request an advocate, be sure to make the crisis center aware of any secondary victims who may need services.

THE ROLE OF THE FIRST RESPONDING OFFICER

- The first responding officer should, consistent with local protocols and departmental procedures, remain with the victim throughout the initial investigative procedure. The officer should assure the victim that her immediate safety is the first priority, explaining the police procedures and the rationale for the procedures, what is being done to apprehend the suspect, and the investigative and medical procedures that will follow.

- The first responding officer's first responsibility is to assess the victim's need for emergency medical care, administer necessary first aid and request medical support, if necessary. Take the time to establish rapport and determine her emotional state. Remember that the victim is in a state of crisis. Do not confuse calmness, indifference, or even laughter as signs that the victim is not being truthful.

- If she has changed clothes, secure as evidence all items of clothing worn at the time of the attack. All clothing items should be packaged in paper bags (plastic bags may distort or destroy evidence). Wet items should be air-dried as soon as possible.
- Victims reporting an assault within 5 days of the assault should have the option of a sexual assault forensic and medical examination. Request, as appropriate, that the victim consent to a forensic physical examination, emphasizing its importance for her physical well being as well as the investigative and apprehension impact.
- An officer should transport the victim to the nearest emergency room for medical treatment and an evidentiary examination. If possible, the officer should remain with the victim until the proper medical personnel and/or support person is available. The officer should request that a Sexual Assault Nurse Examiner (SANE) be called if the hospital has such a program (see page 25), and make sure that a crisis center advocate has been called and is available for the victim.
- The officer should not be present in the exam room during the examination.
- Before leaving the hospital, the first responding officer should obtain information as to where the victim may be contacted for the detailed interview and a formal statement. In addition, the officer should, whenever practical, take necessary steps to assure that the victim will have adequate protection, support, transportation, clothing, etc. for her immediate and near-future needs, prior to leaving.
- If applicable, the officer should provide the victim with the name and phone number of the assigned investigator and the working hours of the Investigation Division, if any, so that the victim may contact the department to get progress reports, follow-up information, etc. as needed.
- The officer should contact the local sexual assault crisis center so that a victim advocate may be dispatched to the hospital to meet the victim. If the initial responder is transporting the victim to the hospital, some crisis centers prefer that the officer or dispatch contact them directly, so that everyone arrives at the hospital at the same time. If the victim goes to the hospital on her own, the hospital will immediately call an advocate from the nearest crisis center to come to meet with the victim. The advocate will be introduced to the victim and the victim will be given the choice of whether or not to speak to the advocate. Having the victim meet the advocate in person will encourage the victim to more readily accept the support. The immediate involvement of the crisis center advocate at the hospital is crucial to the recovery and support needed by most sexual assault victims.
- The officer should be assured that hospital personnel do not question the victim about details of what happened in the crime, except as specified by the medical examination. Crisis center advocates are trained not to question about the assault or pursue details.

- If a victim refuses the exam or the exam is inappropriate, due to the time lapse, etc., the officer should provide the victim with the phone number of the local crisis center and encourage her to contact them.
- If the victim refuses a forensic medical exam or if the exam is inappropriate, the officer should still conduct the initial interview.

THE PRELIMINARY INTERVIEW

Although intimate details of the sexual assault itself are not needed at this point in the investigation, a preliminary interview with the victim is necessary so the responding officer can relay information that may be vital to the apprehension of the assailant. The interview should be conducted in a private setting, away from the suspect and, if possible, other family members. The victim should be informed that the victim advocate may be included as a support person. The advocate's role is to be there to support the victim and not to participate in any way with the interview.

- Remember that this is an interview, not an interrogation. Do not allow a false report by a previous victim to affect your investigation. Assume the victim is telling the truth until you are convinced beyond a reasonable doubt otherwise.
- The first responding officer should begin by expressing to the victim that she is safe now, that the officer feels sorry that this violence happened to her and that it is not the victim's fault.
- The investigative process should be explained so the victim knows what information is needed and why.
- The interview should be limited to those matters necessary to identify the victim, suspect and witnesses, to describe and to locate the suspect, witnesses and physical evidence, and to identify the crime committed.
- Due to the violent nature of the crime, sexual response has no relevance or bearing on the investigation and no questions should be asked of the victim on this issue.
- The questioning in reference to minute details and the sexual nature of the case should be left to the officer conducting the follow-up interview.

The preliminary interview should elicit the following information:

- The extent of physical injuries, if any, to the victim;
- The location of the actual crime scene;
- A brief description of what happened;
- The identity or description of the offender(s), if known;
- The home or work address of the offender(s), if known;
- The direction in which the offender(s) left and by what means ; and
- Whether any weapons were used.

THE ROLE OF THE SECONDARY OFFICER

It is recommend that the secondary officer perform the following functions:

- Assist the first responding officer in caring for and protecting the victim, if appropriate. The secondary officer would have the responsibility of preserving the scene, gathering evidence or coordinating the collection of evidence by an evidence technician, searching for the suspect, seeking assistance from detectives, notifying hospital personnel, crisis center personnel, or any person the victim may want present for support.
- Secure the crime scene and conduct a preliminary evaluation of the crime scene and identify areas, objects, etc., to be protected, as well as detain subjects found in the area for questioning. The key is to protect and/or preserve all potential sources of evidence until a close evaluation and/or appropriate photographic, video and collection/preservation methods can be applied.
- Establish a perimeter and crime scene log to prevent unnecessary parties from entering the crime scene.

IDENTIFY AND INTERVIEW WITNESSES

- Obtain complete statements from all witnesses. Witnesses include all persons who saw the victim or victims before the incident, who may have seen the victim with the suspect, who may have seen or who heard or saw any part of the incident itself, and everyone to whom the victim spoke after the incident, and before the patrol officers arrived.

INTERVIEW THE SUSPECT, IF PRESENT

- Obtain rough preliminary information from the suspect.
- Record the suspect's emotional and physical condition and demeanor.
- Note the suspect's injuries in detail. Photograph if appropriate.
- Note any evidence of substance/chemical abuse or use.

MAKING AN ARREST DECISION

If the offender is present and probable cause exists, make an arrest.

- Charge the suspect with all crimes arising from the incident.
- Decide to arrest solely on state law, and not on other factors (e.g. speculation the victim will not go forward, the arrest may not lead to conviction, or the race, culture, sexual orientation, class, or profession of either party).

- It is important to keep the victim informed as to an arrest decision so that safety issues can be addressed.

If the offender is not present or has not been identified, obtain identifying information about the offender.

- Let the victim know how important the information is and why the description is needed.
- Begin an area search and broadcast the information as soon as possible. An immediate broadcast increases the probability of locating an escaping offender.

COLLECTING EVIDENCE AT THE CRIME SCENE

Once the scene is defined and secured, the investigating officer begins processing the scene, if no evidence technician is available, or assists the evidence technician if requested.

- Determine whether a search warrant is needed.
- Assess the crime scene for physical evidence (e.g., fingerprints, body fluids, footprints, and/or disrupted objects.)
- Determine whether there are multiple crime scenes.
- Photograph or videotape the crime scene prior to touching, moving, disrupting and collecting of potential evidence.
- Conduct a non-destructive search for all physical evidence at the crime scene.
- If possible, have the victim determine whether any items were taken as "souvenirs" by the offender.
- Collect, properly package, and mark evidence from the crime scene. Note: Air-dry evidence before packaging to avoid deterioration of the specimen. This is essential for any blood sample to be used for DNA testing.
- Diagram the crime scene and document findings.
- Impound all weapons used.
- Seize and ensure the 911-call recording is preserved.
- Complete the necessary documents to transfer evidence to the crime lab for processing, maintaining chain of custody.
- Transport those items of evidence requiring laboratory analysis to the New Hampshire State Police Forensic Laboratory, and obtain receipts. Store remaining items of evidence in a secure storage area to properly maintain the chain of custody.

REPORT WRITING

Consistent with departmental policy, the responding officer(s) should prepare a written police report. Maintaining high objectivity, the officer should ensure that all elements of the crime are included in the report. The report should include:

- Documentation of all verbal or written statements.
- Documentation of names, addresses, phone numbers and statements of all witnesses. No information that could be used to identify the victim (e.g., name, date of birth, address, occupation and place of employment, vehicle registration number) should be released to the public, or to anyone else without an official need to know request.
- Documentation of alternative address and other location identifiers in case the victim changes location, goes to live with a family member, etc.
- Information regarding the relationship between the victim and offender.
- Documentation of all evidence.
- Documentation of all injuries (visible or complaint of pain).
- Documentation of unusual or suspicious behavior and fetishes on the part of the suspect.
- Reference to all related reports.
- If applicable, provide the follow-up investigator with all related reports and documentation, access to stored crime scene evidence, and lab findings from the forensic evidence.
- Please not that crisis center advocates often prefer that only their first names be included in the report for confidentiality reasons.

THE OFFICER SHOULD <u>NOT</u> DISREGARD A COMPLAINT DUE TO:

- Assertion by the suspect that consensual sex occurred.
- Chemical dependency or intoxication of either party.
- Marital status, sexual orientation, race, religion, <u>profession</u>, or cultural, social, or political position of either the victim or suspect.
- Disability status of the victim (including physical, sensory, cognitive or emotional disability).
- Current or previous relationship between the victim and the suspect.
- The officer's belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction.
- Occurrence of the incident in a private place.

- Disposition of previous police calls involving the same victim or suspect.
- Sexual or criminal history of the victim.
- Lack of physical resistance.
- Manner of the victim's dress or behavior.
- Requests by the victim that the suspect use a prophylactic device.
- Assumptions about the tolerance of violence by cultural, ethnic, religious, racial or occupational groups.

NOTE: The officer's personal opinions as to the credibility of the victim should not be included in the report.

INVESTIGATION

INVESTIGATION STRATEGIES

An investigative strategy will clarify and apply focus to the investigation. Primary issues raised in prosecution can categorize cases. There are primarily two types of defenses raised in sexual assault cases - the identity of the perpetrator or consent of the victim will be the key issues.

IDENTITY CASES

Identity cases are the "stranger rape" variety in which an unknown offender attacks the victim. This kind of case includes most pattern or serial offenders. Because identity will be the main issue, the investigation should focus on obtaining as much information about the offender as possible, to develop suspects.

- Obtain a comprehensive physical description of the offender.
- Obtain as much information as available about the method of operation of the offender.
- Analyze the method of operation of other offenders who might have been previously arrested for a similar crime, to determine whether a pattern exists.
- Obtain forensic evidence from the victim, if the victim consents.

CONSENT CASES

The majority of sexual assault complaints are "consent" cases where there was some prior interaction between the offender and the victim. The offender may be the victim's former partner, spouse, co-worker or other acquaintance. Because of the prior social or sexual relationship between the offender and victim, the offender will often contend that the victim

consented to the sexual activity. The existence of force becomes the primary issue in consent cases. Where there is little physical evidence of force, the question is one of credibility - the word of the victim versus the word of the offender. Information about the victim's resistance efforts and state of mind must be recorded.

The officer should document:

- Any of the victim's reported efforts at resistance.
- Exact information concerning the victim's submission.
- Victim's fear of the offender.
- Fears related to the environment in which the sexual assault took place (e.g., the victim may have been taken to an unknown area or a sparsely populated location).
- Any prior history of violence between the parties.
- Any evidence of physical injuries on the victim's body.

A comprehensive statement from both the victim and offender can then be compared for logical and factual consistencies.

WHAT IS CONSENT?

Since it is the lack of consent that makes sexual assault a crime, consent is the key issue in cases of sexual assault. In some instances, it is not difficult to determine whether or not a sexual assault has occurred (e.g., excessive force was used, the victim was under the age of 16, the perpetrator was in a position of authority.) Other cases are less obvious to the investigator. In these situations, consent is typically the key. If someone were to say “yes” to a sexual act (age 16 or older), then no crime has been committed. If that same person demonstrates “no” to any sex act by word or deed, then a crime has been committed. The person, who is too frightened to speak while a sex act is being performed, has not consented, and a crime has occurred.

Consent is a two-part process. The first part requires an individual to understand what they are consenting to; the second part requires an affirmation that they have consented, whether that is through words or action. If the individual is incoherent, incapacitated or unconscious, it should be assumed that consent could not be freely given. In cases where consent was obtained through use of force, coercion, threat or manipulation it cannot be said that consent was given freely. In cases where the individual has said “Stop,” or “No,” or used body language and gestures indicating the same, consent has been denied.

The section of New Hampshire's Aggravated Felonious Sexual Assault statute that refers to consent is RSA 632-A: 2 (m). "When at the time of the sexual assault, the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act.”

According to Webster's Collegiate Dictionary, the definition of "consent" is:

1. To give assent or approval.

2. To be in concord in opinion or sentiment.

3. Compliance in or approval of what is done or proposed by another.

4. Agreement as to action or opinion.

The statute is clear that consent must be freely given. Perpetrators will often claim that the victim did not say NO, therefore they assumed consent. Documenting the conduct of the victim will be critical in demonstrating that consent was not indicated.

LAW ENFORCEMENT INVESTIGATIVE INTERVIEW

Some larger police departments have investigators or detectives whose specialties include sexual assault investigation. These officers do not answer the initial call, but enter the case after the responding officer has written his/her initial report. Upon arrival at the hospital, such investigator should talk with the responding officer and/or attending hospital staff to obtain information about the assault and the condition of the victim.

In most cases, the investigator will conduct the follow-up interview after the victim has already spoken with the responding officer and hospital staff. It is very important that the need for a third interview be explained to the victim, emphasizing the reason why more detailed questions must be asked. Intimate details of the attack may be traumatic and embarrassing for the victim to recall. However, the details provide information that the investigator must have in order to obtain an accurate picture of the circumstances surrounding the case and to prepare a report for the prosecutor.

General guidelines for this interview include the following:

- The interview should be conducted after the medical examination and evidence collection procedures have been completed. In some cases, it may be necessary to delay the interview for several hours or longer. Depending upon the circumstances, some investigators prefer to do the interview the next day. Delays at the hospital are often caused by the length of time necessary for the medical examination. The follow-up investigator must understand participation by crisis center advocates and the role of hospital staff and the functions and priorities of the emergency room in coping with these delays.
- The interviewer should inform the victim of their right to have a crisis center advocate present during the interview for support, if the crisis center provides this service.

- The interviewer should be empathetic and understanding of the victim's trauma, while at the same time effective in collecting all necessary information about the case.
- Questions pertaining to a victim's past sexual history should be avoided. Such information is generally excluded from evidence in court under the *Rule 412, of the New Hampshire Rules of Court,* also known as the *"Rape Shield Law"*.
- Questions should focus on the offender's behavior and the coercion/force that was used and not on the victim's behavior.
- The interviewer's personal opinions, on such things as the credibility of the victim, should not be included in the report.
- The interviewer should establish him/herself as an ally of the victim and try to cushion the victim from pressures from family, friends, and co-workers, as well as from possible threats from the attacker.
- The victim should be allowed to tell her story without interruption by the interviewer. This will also afford the victim an opportunity to vent pent-up feelings in describing the assault. A special note should be made to record anything the attacker might have said or done in order to help establish the modus operandi or crime pattern.
- The interviewer should go back over the story and, using the notes taken, ask specific questions covering any areas of the narrative that may have been incomplete or unclear.

VICTIM INTERVIEW

The in-depth interview of a sexual assault victim is a difficult and sensitive process. It is painful for the victim and can produce emotional outbursts. It may be stressful for the investigator who must remain objective and professional in demeanor.

Determine the victim's emotional and physical ability to submit to this re-interview and schedule it as soon after the incident as these factors allow. **The victim should be informed that the victim advocate may be included as a support person. The advocate's role is to be there to support the victim and not to participate in any way with the interview.**

In crimes of sexual assault, the victim is the main, and frequently the only, witness. The officer's responsibility in conducting the interview of the victim should be to obtain the most complete and accurate information possible with the least amount of trauma to the victim. It is important to keep in mind that although the officer may view this as a routine investigation, for the victim it has been a traumatic, degrading, life-changing event.

Approach the victim in a respectful, supportive manner. Remain neutral, objective and non-judgmental.

- Select an appropriate interview environment. Interview the victim in a place where the victim will feel safe and comfortable. Select a private room with a comfortable chair for the victim. Avoid sitting behind a desk. Sit to the victim's side and preferably at the victim's eye level. Have water or coffee available to drink and a bathroom accessible.
- Be aware of and avoid invading the victim's personal space. Avoid touching her without permission. A space of three feet is recommended at a minimum.
- The interviewer should begin the initial contact by providing the victim with the interviewer's name and agency and a brief explanation of the purpose of the in-depth interview.
- Explain that although some of the information has already been provided to the dispatcher, responding officer and medical personnel, this interview is necessary to establish and/or confirm each of the required elements of the case.
- Explain the need for obtaining detailed information. Let the victim know that complete information needs to be shared with the interviewer so that the defense cannot surprise the victim.
- Let the victim know that it may be necessary to ask some questions in several different ways but that this does not mean that the officer does not believe her. Remind her that the officer's goal is to make sure that the information being recorded is correct and complete. Encourage the victim to interrupt in order to include a fact or correct a mistake.

ESTABLISHING RAPPORT

Begin the interview with "you" statements and questions.

- How are you feeling?
- I'm sorry this happened to you.
- Where would you like to do this interview?
- May I call you by your first name?
- Where do you go to school? Work?

Asking non-invasive questions at first and showing concern for the victim's well being may help the victim to relax, and may aid in enabling the investigator to build rapport with the victim.

- Keep the victim informed with "we" statements.
  - We need to review some information together.

- We have some things to do now.

Use of the "we" provides the victim with the sense that this is a team effort, that she has a vital role to play, and that she has some sense of control.

- Tell the victim what you need with "I" statements.
  - I need you to remember as many of the details as possible.
  - I have worked on other cases of sexual assault and will bring all of my experience and training to bear on this investigation but I need your help to do it.

This will help to reassure the victim that her complaint is being taken seriously, and will be handled professionally.

- Do not begin taking notes immediately. Ask the victim if she minds if you take notes, and be sure she feels comfortable with the process first.
- Be sensitive to the embarrassing nature of the information the victim is providing. Once the victim describes sex acts or parts of the body, use the victim's own vocabulary to ask clarifying questions. It may even be helpful to repeat the same words back to the victim immediately, so as to "give permission" to continue using those words which the victim may feel uncomfortable using (e.g., "so he stuck his penis in your mouth. Then what did he do?")
- Be careful not to convey any judgment about the victim's actions prior to or during the assault. Instead of asking, "Did you try to run away?" ask instead, "What did you do then?"
- Ask open-ended, non-leading questions such as, "And then what happened?" or "Tell me more about that." Listen carefully and take accurate notes for inclusion in the report. If something is unclear, ask specific questions to clarify. Clarify terms as needed.
- Begin the interview by asking the victim questions about the entire chain of events associated with the crime.
- Use respectful and non-judgmental body language when listening to the victim’s statements. (i.e., tone of voice, no rolling of eyes, crossing arms, etc).
- The officer should make sure to elicit details of the assault necessary for the case, including:
  - Time, date and place of occurrence.
  - Any information about the initial point and method of entry, if the offender entered a dwelling, places of business, car, etc.
  - Whether the offender brought anything to the crime scene, such as a cigarette, or took anything from the scene, a "souvenir" or purse?
  - Whether the victim brought anything to or took anything from the crime scene.

- Whether the offender touched or moved anything.
- Whether the offender took any pictures or videos.
- Whether the offender showed any videos or magazines to the victim.
- If the offender used any objects during the assault.
- Whether the offender made any threats. (Take care to distinguish between the victim's submissions (giving-in) and consent (freely participating)).
- Information about any use of force.
- Whether the victim told others about the assault, who she told, and when and what she told them. Specifically, determine whom she told first.
- Information about anyone who may have seen or heard anything before, during or after the assault.

The following is a list of questions that may be helpful when interviewing a sexual assault victim.

PRE-ASSAULT

- If the offender is an acquaintance, when did the victim become aware that the situation was changing and that there might be a problem or that something wasn't "right"? Did the offender act similarly in the past? Under what circumstances?
- Does the victim follow a specific routine and route each day?
- Where was the victim coming from/going to or what was she doing at the first moment she became aware of the offender's presence?
- Where was the victim and what was she doing when first confronted by the offender?
- Was the victim threatened by anyone recently?
- Did any strangers asking odd questions approach her recently?
- Did anyone ask her friends questions about her recently?
- Did she find any strange notes or pornography?
- Did neighbors ever mention a stranger or strange vehicle in the vicinity of the victim's house?
- Have any workmen or trades people been working there recently?
- Have any neighbors made “Peeping Tom” complaints?
- Is the victim aware of anything, no matter how insignificant she might think it is, that is even remotely inconsistent with her normal, every-day life?

- Who was the last person the victim saw prior to the sexual assault? How does she know this person?
- Did the victim observe a delivery truck in the area? Was the vehicle parked? Moving? In what direction? What was the name on the truck?
- Was anyone working in the immediate area that may have been a witness?
- Were any children in the area?
- How did the offender approach? Was he friendly (asking directions)? Did he approach suddenly, and with force?
- Was the offender armed? What type of weapon?
- Did he make verbal threats (exact wording)?
- Did he offer to make a deal (exact wording)?
- Did he use any obscenities (exact wording)?
- What was the victim's reaction? NOTE: Make sure this question is phrased in a way as to not blame the victim! (Ask, "What happened after . . ." instead of "Did you fight back?")
- Did the victim say anything to the offender (exact wording)?
- Has the offender contacted the victim previously by e-mail? Get details.
- Does the victim know if the offender has a computer?

THE SEXUAL ASSAULT

Before moving into this area, the interviewer should pause a moment and remind the victim that although this is the most difficult part, nothing she says will shock the interviewer. Offer a break before going into this section. Explain that many victims have difficulty talking about the sexual acts, but the information is important, and all the details are necessary, especially to identify possible forensic evidence. Be sure she does not regard the questions as voyeuristic.

- Did the offender remove the victim's clothing? Slowly? Forcefully? Was the victim commanded to remove her clothing? Did the offender touch or caress her underwear or clothes?
- Was the offender's erection full or partial? Was he able to sustain it? Did he ejaculate? Internal? External (body parts, pubic hair, chest) on clothes, sheets, floor? Did he use tissues to wipe himself? Where were they disposed of?
- Did anal intercourse occur? Did mouth-to-vagina contact occur? Did mouth-to-penis contact occur? Did mouth-to-anus contact occur? Did the offender ejaculate at any of these points?

- Were any foreign objects inserted into anus or vagina? What was the object? Was it left behind?
- Did the offender masturbate? Did he ask or demand the victim to masturbate?
- Did the offender ask the victim to talk "dirty" (exact wording)?
- Were condoms used? Were they brought by the offender or did they belong to the victim? Did the offender take them or leave them? Were they disposed of? Where?

NOTE: The presence of a condom does **not** indicate consensual activity. The awareness of sexually transmitted infections and the value of semen as evidence have increased the use of condoms by offenders of sexual assault.

POST-ASSAULT

- What happened after the assault?
- Did the offender say anything (exact wording)? Did he make any parting threats? Did he apologize? Ask for a future date with the victim?
- Did the offender use the bathroom or the sink? Make a telephone call? Eat or drink anything?
- When and how did the offender leave? Did the victim see the offender's vehicle? Did he leave on foot?
- Has the offender contacted the victim since the assault? When? How? What did he say?
- Who did the victim tell first about the assault? When? How?
- If there was a delay in reporting, find out why. **NOTE**: Be very sensitive with this question. There are many very good reasons that a victim would delay reporting. A delay in reporting should not be used as a reason to doubt the truthfulness of a victim.

OFFENDER DESCRIPTION

If the offender is unknown then a complete description of the offender must be taken. A description taken after the interview is often more accurate and detailed than if taken early in the interview. Some items to include in a description:

General physical description:

- Race
- Sex
- Age (approximate)
- Height (compared to investigator)

- Weight (compared to investigator)
- Build (compared to investigator)
- Clothes
- Mask?
- Gloves?
- Eyeglasses? Hearing aid?

Anatomical profile:

- Head (round, oval, narrow, large, small?)
- Hair (long, short, crew, wavy, color, dirty, neat, messy, curly, parted?)
- Ears (shape, protruding, hairy, pierced?)
- Face (round, flat, elongated, acne, scars, pale, tanned, rough?)
- Beard/facial hair (type, length, color, full or sparse?)
- Nose (shape, scars, pierced?)
- Mustache (shape, color, thin, thick, trimmed?)
- Breath (good, bad, alcohol, toothpaste?)
- Teeth (straight, crooked, white, stained, missing, dentures?)
- Eyes (color, shape, bloodshot, pupils dilated, glassy or watery?)
- Neck (thick, thin, necklace?)
- Upper torso (muscular, thin, body hair, tattoos?)
- Arms (muscular, tanned, tattoos, bandages, and watch?)
- Hands (large, small, smooth, callused, bandages, rings, and ring impressions?)
- Lower torso (legs straight, bowed, scars, thin, muscular?)
- Pubic hair (long, short, straight, curly, shaved?)
- Feet (large, small, scars?)
- Body piercing?
- Odors? Cologne, etc.?

ENDING THE INTERVIEW

The manner in which you end the interview is just as important as how you open and conduct it.

- Ask the victim if she has any questions and then listen to her. Answer questions truthfully.
- Do not make any promises you cannot keep, such as "We will nail this person before the week is out."
- Explain honestly what the next steps will be.
- Advise the victim to call any time she wishes to speak with you. Make sure to give the victim your business card.
- Be sure to get accurate information about where/how you can contact the victim, and ask her to keep police notified of any changes in contact information.
- Tell the victim that she may be eligible for Crime Victim's Compensation, and help her get the proper forms (see page 37).
- Ask the victim to call with any additional information she may remember about the assault, no matter how insignificant it may seem to her.
- Arrange for the victim to be transported if she has no transportation.
- Shake the victim's hand and reassure her that everything possible will be done to apprehend the offender as soon as possible, and you will keep in close touch with her and keep her posted.

A sexual assault victim is in a fragile emotional position. Although a handshake is appropriate, other physical contact with her such as hugs might not be. It is totally inappropriate and unprofessional for an investigator or responding officer or prosecutor to adopt a close, personal relationship with a victim while they are in such a fragile condition or during the course of an investigation or trial.

PHYSICAL EVIDENCE

THE IMPORTANCE OF COLLECTING EVIDENCE

In most violent crimes, identifying the perpetrator is a critical first step in the solving process. In most cases of sexual assault, the identity of the assailant is already known. Most victims are assaulted by someone with whom they are acquainted, or with whom they have a personal relationship. Where the identity of the assailant is unknown to the victim, the collection of physical evidence becomes even more critical. In these cases, the identity of the assailant may only be obtained through the scientific analysis of physical evidence including fingerprints or a DNA analysis of biological samples.

Unlike other violent crimes, many sexual assault prosecutions involve issues regarding the victim’s consent to sexual activity, and the consent of the victim often becomes the pivotal issue at trial. Issues of consent are the most difficult matters for juries to decide. Jurors may have to choose between opposite, yet persuasive, arguments about the victim’s consent. At these times many prosecutors look to the forensic scientist to assist them in

demonstrating to the jury that the victim did not give her consent. Successfully prosecuting the perpetrator often relies on the use of physical evidence at trial. Proper documentation, collection and preservation of physical evidence in a sexual assault investigation are essential. The use of the New Hampshire Sexual Assault Evidence Collection Kit is a fundamental part of this process.

SEXUAL ASSAULT NURSE EXAMINER PROGRAM

The State of New Hampshire's goal is to provide statewide consistent care that respects the emotional and physical needs of the sexual assault victim, while collecting the best possible forensic evidence to promote the effective prosecution of the offender. The state recognizes the many emergency room doctors and nurses who are providing excellent care to victims of sexual assault. However, in an effort to ensure that this care is uniform and standardized throughout the state, the Sexual Assault Nurse Examiner (SANE) Program was created.

A Sexual Assault Nurse Examiner is a Registered Nurse or physician specially trained to provide comprehensive care to sexual assault victims, and who has demonstrated competency in conducting a forensic examination. The SANE provides compassionate, consistent care throughout the examination process, conducts a timely medical and forensic examination, and provides appropriate referral for follow-up care and counseling services to avoid further trauma to the victim. Sexual Assault Nurse Examiners are certified by the New Hampshire Attorney General's Office in currency of practice, and are available to provide expert witness testimony when needed.

SANE programs have been in existence throughout the United States for over twenty years. In 1995, the first New Hampshire SANE Program was implemented at Valley Regional Hospital in Claremont. In 1996, the New Hampshire Attorney General's Office established a multidisciplinary Task Force, which reviewed and adopted the model for the New Hampshire Statewide SANE Program. The New Hampshire Sexual Assault Nurse Examiner Advisory Board was formed to oversee the Program.

The goal is to have all sexual assault medical and forensic examinations in New Hampshire performed by Sexual Assault Nurse Examiners or physicians who have completed the SANE training. An annual SANE Certification Training for new applicants, as well as continuing re-certification training, will be offered. For more information, call the SANE Coordinator at *(603) 224-8893*.

NEW HAMPSHIRE SEXUAL ASSAULT EVIDENCE COLLECTION KIT

Recognizing the dual importance of sensitivity to the medical and emotional needs of the victim and the timely collection and preservation of irretrievable physical evidence, the

New Hampshire Attorney General's Office created a comprehensive sexual assault evidence collection kit. This kit provides most of the materials needed for the timely collection and preservation of a variety of physical evidence types commonly encountered from the victim or their clothing. The kit is equipped for the collection of blood samples, body cavity swabbing, hair combings, and other case specific samples. Sexual assault evidence collection kits are distributed free of charge to hospitals throughout New Hampshire for use in connection with the Attorney General's Office State of New Hampshire Protocol entitled *Sexual Assault: A Hospital Protocol for Forensic and Medical Examination, Second Edition 1998.*

It is the responsibility of the investigating law enforcement agency to insure that **all** sexual assault evidence collection kits and any physical evidence turned over to them by medical personnel, are submitted to the New Hampshire State Police Forensic Laboratory as soon as possible. The kits should not be kept at the police department for any reason.

The treatment of sexual assault is considered to be a medical emergency. Victims should be treated in a hospital emergency room. If the assault occurred within 5 days of the examination, an evidence collection kit should be used. There is no medical or legal reason for a law enforcement representative, male or female, to be present during the examination.

PACKAGING

In order to prevent the loss of hairs, fibers, or other trace evidence, clothing and other evidence specimens must be sealed in paper or cardboard containers. The use of plastic could result in the destruction of evidence. Moisture remaining in the evidence items will be sealed into plastic containers, making it possible for bacteria to quickly destroy any biological evidence. Unlike plastic, paper "breathes," and allows moisture to escape. If the clothing is wet, the items may be placed in plastic bags provided that holes for ventilation are made.

SEXUAL ASSAULTS FACILITATED THROUGH THE USE OF DRUGS

Alcohol and other drugs are sometimes used by assailants to incapacitate the potential target of a sexual assault. Although the use of chemical substances to facilitate the commission of a sexual assault has been reported for years, the widespread use of new substances has sparked a renewed interest in this practice. Many of these drugs are surreptitiously mixed with alcohol or other beverages to incapacitate the unwary victim. Often, these substances are odorless, colorless, and tasteless. This makes them difficult to detect by the victim if covertly slipped into a drink. These drugs are fairly short acting, but conveniently allow the perpetrator sufficient time to persuade the victim to leave a public area for a more private location. Once the victim recovers from the effects of the drug, retrograde amnesia makes it difficult to recall the events following the ingestion of the drug. Sexual assault victims may not be aware of the assault or whether or how they were drugged.

The Federal Drug-Induced Rape Prevention and Punishment Act of 1996 provides penalties of up to 20 years imprisonment for persons who intend to commit a crime of violence by distributing a controlled substance to another without that individual's knowledge.

If it is believed that a drug was used to facilitate the commission of a sexual assault, a blood sample and/or a urine sample will be collected from the patient during the sexual assault medical examination. If drug ingestion was within 48 hours, both a blood and urine sample will be collected. If drug ingestion was between 48 and 72 hours, only a urine sample will be taken. After 72 hours, there is no need to collect any specimen. **The samples will be turned over to law enforcement along with the evidence collection kit, and they should be transferred to the New Hampshire State Police Forensic Laboratory as soon as possible.** If it is anticipated that a urine sample will not be submitted to the crime lab for more than 24 hours, it should be frozen and kept frozen until it is submitted to the State Police Forensic Laboratory.

Neither the State Police Forensic Laboratory nor the New Hampshire Division of Public Health Laboratories currently has the capability to adequately test for the wide range of chemical substances sometimes used to facilitate a sexual assault. Such samples must be forwarded to another laboratory for toxicological testing. At the present time, samples selected for testing are sent by State Police to a privately operated forensic toxicology laboratory. The cost of the testing is borne by the investigating agency. **Despite the cost to individual departments, it is critical, not only to the case itself, but also because of potential civil liability against the investigating agency by the victim, that these samples be tested.**

CONDOM TRACE EVIDENCE

Today's widespread awareness of the spread of various sexually transmitted infections has resulted in an increase in the number of individuals practicing safer methods of sexual activity. The use of condoms is one of the most effective methods of preventing pregnancy and the spread of sexually transmitted infections. Media attention to the ever-increasing use of DNA in identifying the perpetrators of unsolved crimes has increased the use of condoms by sexual assault offenders. Just as a burglar often wears gloves to avoid leaving fingerprints at a crime scene, the sexual perpetrator uses a condom to avoid leaving DNA from semen on the body or clothing of the victim.

Condoms are made from a variety of synthetic and natural materials. Latex rubber is the most popular. Condom manufacturers add particulates (powders), lubricants, and spermicides to their products for a variety of reasons. Residues of these substances are referred to as condom trace evidence. Condom trace evidence can be recovered from sexual assault victims during the medical examination process. The identification of condom trace evidence will assist investigators and prosecutors in proving penetration, in the absence of

semen. To assist the forensic laboratory in the analysis of condom trace evidence, investigators should make every effort to collect all condom-related evidence including, but not limited to:

- Used condoms
- Unused condoms
- Condom wrappers
- Partial or empty boxes of condoms.

CLOTHING AS EVIDENCE

Clothing frequently contains important sexual assault evidence because garments provide a surface upon which traces of foreign matter may be found. The assailant's blood, semen, saliva, hairs, or textile fibers may be transferred to the victim during physical contact. While foreign matter can be washed off or worn off the body of the victim, the same substances often can be found intact on clothing for a considerable length of time following the assault.

Damage to clothing may be significant as well. It may be evidence of force or resistance and can also provide laboratory standards for comparing trace evidence from the clothing of the victim with trace evidence collected from the suspect and/or the crime scene.

During the course of the sexual assault, the victim's clothing may pick up and retain trace evidence from the assailant and/or the crime scene. The forensic scientist may be able to reach certain pertinent conclusions in an attempt to reconstruct criminal actions based upon the location and composition of this debris. If, due to careless packaging of evidence, trace evidence from one garment accidentally contaminates another garment, it may be impossible for the examiner to accurately interpret such findings. For example, if semen in the female victim's underpants is inadvertently transferred to her shirt after collection, the detection of semen on the shirt may mistakenly appear to contradict the victim's account of what occurred. In order to prevent cross-contamination, each garment should be placed in a separate paper bag.

MEDICAL PHOTOGRAPHS

Diagrams and photographs can be important to reinforce narrative information contained in the evidence collection kit. Medical photographs should not be taken on a routine basis. Blank anatomical diagrams, which are provided in the evidence collection kit, should be used to show the location and size of all visible injuries, and should be accompanied by a detailed written description of the trauma.

Photographs serve to visually document the actual physical appearance of an injury to preserve it for additional analysis (i.e., a bite mark) and/or for presentation as evidence. For photographs to be admissible in court, they must first be authenticated. Someone who

personally observed the victim's injuries must be able to testify that the photograph fairly and accurately depicts the actual appearance of the injury at the time the photograph was taken.

Photographs should not be taken in lieu of diagrams or written descriptions. During the medical examination, all photographs should be taken by the sexual assault examiner following the procedures outlined in the New Hampshire protocol, *Sexual Assault: A Hospital Protocol for Forensic and Medical Examination, Second Edition, 1998*. Photographs may only be taken with the written consent of the victim. Only in cases where the examiner is unable to take photographs should other medical or law enforcement personnel, who are trained to take photographs of injuries, be called in to take the photographs. **All photographs taken by the examiner become part of the medical record and should <u>not</u> be placed in the evidence collection kit.**

CRIME SCENE EVIDENCE

Second in importance only to evidence recovered from the victim's body is physical evidence recovered from the crime scene. Fingerprints or body fluids recovered from a particular location may corroborate the victim's statement as to where the crime occurred and who was present. Physical evidence can take many forms, and sexual assault crime scenes are no exception. Clothing, bedding and condoms are commonly collected and submitted to the crime lab for analysis. Photographs of the crime scene should be taken following departmental procedures. Sexual assault crime scene investigators should have as thorough an understanding of the circumstances surrounding the assault as possible so that they know what and what not to collect as evidence. Crime scene investigators should keep an open mind in deciding what may be probative physical evidence. In sexual assault cases where the victim is abducted or moved from one location to another, there may be multiple crime scenes - an outdoor location, the suspect's vehicle, and a subsequent indoor location, for example. It is important to process each of the multiple scenes as carefully as the other.

Any evidence suspected of containing a biological stain (e.g. blood, semen, saliva, etc.) must be packaged in separate breathable containers such as paper bags or cardboard boxes. Evidence collected in airtight containers such as plastic bags contain sufficient residual moisture so as to promote the growth of bacteria. This bacterial growth will destroy the genetic material in the body fluid stain, rendering it useless for forensic purposes. Soaking wet items must be thoroughly dried prior to submission to the New Hampshire State Police Forensic Laboratory.

All evidence submitted to the Forensic Laboratory must be properly packaged, sealed with initialed tamper-proof evidence tape, and marked with at least the following information:

- Exhibit number
- Department case/incident number

- Date/time evidence was collected
- Brief description of evidence
- Name/initials of the collector.

SUSPECT EVIDENCE COLLECTION

When the alleged perpetrator is arrested shortly after the assault, investigators have a unique opportunity to collect biological specimens from the suspect's body or clothing. The examination of a suspect(s) may provide useful corroborative information to an investigation. If performed before the degradation of biological material, the examination may link the suspect to the crime. Through accurate collection of blood, hair, nail, wound and body fluid evidence, examination of the suspect may corroborate the victim's story of the encounter.

The serological analysis of evidence is conducted in an attempt to demonstrate recent contact between the victim and the perpetrator(s). Semen, blood or saliva of the suspect, detected on the body or clothing of the victim, may corroborate allegations that a sexual assault has occurred. Genetic material from the victim, detected on the body or clothing of the suspect, may also corroborate allegations that a sexual assault has occurred.

A DNA analysis may reveal that these secretions contain genetic material from the victim. A swabbing of the suspect's penis may retrieve secretions from the mouth, vagina or rectum of the victim. In cases involving digital penetration, swabbing of the suspect's fingers or scrapings/clippings of the suspect's fingernails may retrieve secretions originating from the various body cavities of the victim.

No matter what medical facility is used for evidence collection, the suspect and victim should never encounter one another. The security and safety of the examiner should be taken seriously, and law enforcement should be present for the entire examination process and evidence collection.

If the suspect voluntarily consents to the forensic examination, the appropriate consent forms must be signed. If the suspect does not voluntarily consent, a search warrant/court order is necessary and should contain all evidence collection required. A copy of the search warrant/court order shall be submitted to the examiner prior to the collection. The investigating law enforcement officer, prior to the collection of any evidence, must serve the search warrant on the alleged suspect. The officer should expect that only the evidence indicated on the search warrant would be collected. In the event that evidence is identified during the course of the forensic evaluation, additional search warrants must be obtained and served prior to collection of this evidence.

The New Hampshire Sexual Assault Evidence Collection Kit should never be used when collecting evidence from sexual assault suspects. These kits are intended for the collection of evidence from victims of sexual assault and do not adequately provide for the collection of all the necessary specimens from sexual assault suspects. It is the responsibility of the investigating law enforcement agency to obtain and submit to the examiner a suspect

evidence recovery kit for collection of evidence. These kits are commercially available from private vendors, including *Sirchie Laboratories*. Once the evidence is collected, it is the responsibility of the investigating agency to deliver the evidence to the crime laboratory in a timely fashion.

COMBINED DNA INDEX SYSTEM (CODIS)

Individuals who perpetrate certain types of crimes demonstrate a propensity for continuing in similar criminal behavior. Sexual offenders are one group of criminals who are prone to such recidivism. The media is replete with reports of serial rapists.

The ongoing development of DNA analyses has allowed crime labs to scientifically document sexual contact between individuals with ever-increasing precision, using ever-decreasing amounts of sample. Crime labs routinely derive DNA profiles of sexual offenders from residual traces of semen collected during the sexual assault examination process. The application of the Polymerase Chain Reaction (PCR) technique in the DNA analysis of physical evidence has provided forensic scientists with the ability to derive DNA profiles from samples that previously were too small or too degraded for analysis.

The nationwide standardization of forensic DNA analyses has provided the ideal platform for crime labs to share DNA information derived from evidence and from sexual offenders. Using the Federal Bureau of Investigation's Combined DNA Index System (CODIS), DNA profiles obtained from body fluid stains on evidence may be compared against a national database of convicted offenders.

For several years, New Hampshire legislation has authorized the collection of blood samples from individuals convicted of sexual assault, felonious sexual assault and aggravated felonious sexual assault. The samples taken from these individuals are subjected to a forensic DNA analysis and the DNA profiles derived are entered into a New Hampshire database of convicted sexual offenders. In "unknown subject" sexual assault investigations, a DNA profile derived from a semen stain on evidence may lead investigators to the identity of the assailant based upon his inclusion in the CODIS database from a prior criminal conviction. In the event that a search between the evidence and offenders in the New Hampshire database is unsuccessful in identifying a "match", CODIS provides for a search of the databases of offenders in the remaining 49 states. CODIS can also identify similar DNA profiles from evidence in separate cases and inform investigators that the same offender has perpetrated these crimes.

DISPOSITION OF THE EVIDENCE COLLECTION KIT

Following collection of medical evidence, the sealed kit and clothing bags are transferred from the sexual assault examiner to the law enforcement investigator. **It is the responsibility of the investigator to deliver the kit and other evidence to the New Hampshire State Police Crime Laboratory as soon as possible to avoid the destruction of vital evidence.** If the

evidence cannot be delivered within 24 hours of collection, the investigator must ensure that the kit is refrigerated, and that chain of custody is maintained.

ONCE THE EVIDENCE IS COLLECTED, IT IS CRITICAL THAT ALL EVIDENCE COLLECTION KITS TURNED OVER TO LAW ENFORCMENT, <u>INCLUDING ANONYMOUS KITS,</u> BE TRANSPORTED TO THE LABORATORY AND NOT BE KEPT AT THE POLICE DEPARTMENT FOR ANY REASON.

REPORTING

Successful prosecution of a sexual assault case is dependent upon a cooperative victim. Most adult sexual assault injuries are not required to be reported to the police, and it is the victim's decision whether or not to report the crime. The current rules adopted under RSA 631:6 are as follows:

1. If the victim is **under the age of 18**, any injury believed to have been caused by a criminal act **must be reported to the local District Office of the Division of Children Youth and Families.** Even if there is no current injury, suspected child abuse must be reported under RSA 169-C. **There are no exceptions.**

2. If the **victim is 18 years of age or older**, and has **received a gunshot wound or other serious bodily injury,** the injuries **must be reported** to the police by the examiner. As defined in RSA 161-F: 43 "serious bodily injury" means any harm to the body which causes or could cause severe, permanent or protracted loss of or impairment to the health or of the function of any part of the body. **Exception:** Under Federal law, records of the identity, diagnosis, prognosis or treatment of a patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment or rehabilitation which is conducted or directly or indirectly assisted by any federal agency are confidential and may be disclosed only pursuant to a court order.

3. **If the victim is 18 years of age or older and is "thought to manifest a degree of incapacity by reason of limited mental or physical function which may result in harm or hazard to himself or others" or is chronically dependent on others to manage personal, home or financial affairs, the injury must be reported under the Protective Services to Adults Statute, RSA 161-F: 46. See Appendix K. Exception: as in 2. above.**

4. **All other victims<u>, those who are 18 years of age or older and have not sustained a gunshot wound or serious bodily injury</u> must be asked whether they object to having their injuries reported to the police. <u>It is their decision whether or not to report the crime to the police.</u>**

   In all cases, victims of sexual assault should be advised of their options.

ANONYMOUS REPORTING PROCEDURE

The State of New Hampshire has an anonymous reporting procedure for adult victims of sexual assault who go to the emergency room for treatment and evidence collection. In the past, victims had only two weeks to report the crime or the evidence collection kit and other evidence collected were destroyed and the evidence was lost. Some sexual assault victims who present themselves to the emergency room for medical treatment may, because of the trauma they experienced, be undecided over whether to report the crime to law enforcement.

Recognizing the dual importance of being sensitive to the needs of the victim and the timely collection and preservation of irretrievable physical evidence, the anonymous reporting procedure was developed to ensure that victims of sexual assault, who are undecided over whether or not to report the assault, have three months before the kit is disposed of. Victims may maintain their anonymity until such time as they decide to report the crime.

The evidence is collected and analyzed in accordance with the New Hampshire protocol, *Sexual Assault: A Hospital Protocol for Forensic and Medical Examination, Second Edition, 1998* except that the identity of the victim is not documented on any of the specimens or paperwork provided in the Sexual Assault Evidence Collection Kit. A number is provided on the outside of the Evidence Collection Kit Box and this number is used in place of the victim's name on all specimens and paperwork.

The anonymous kit is then turned over to the local law enforcement agency, and they transport the evidence to the New Hampshire State Police Forensic Laboratory, just as they would in a reported case. **The anonymous kit is kept in storage for three months from the date of the medical examination**. If the victim has not reported the crime to law enforcement during this time period, the evidence will be returned to the submitting police department for final disposition. At the time of the evidence collection, the victim is informed by the examiner that if the assault is not reported within three months, all of the evidence, including clothing, will not be returned, but will be destroyed.

If the victim ultimately chooses to report the crime to law enforcement, the victim will obtain the kit serial number from the hospital record. The victim will then provide it to the police so that the evidence (in storage at the State Police Laboratory) may be associated with the reporting victim and an investigation of the crime, including the examination of the evidence, may commence.

RECANTING

It is not uncommon for a victim of sexual assault to recant (say the charges were false) her original testimony. It should not be assumed that the original disclosure was a false report. In most instances, the legal process or pressure from others to clear the perpetrator may

overwhelm the victim. A sensitive police officer can determine the catalyst for the change and assist the victim in deciding whether or not to go forward.

THE FBI ESTIMATES THAT ONLY APPROXIMATELY 2% OF SEXUAL ASSAULTS ARE FALSELY REPORTED, THE SAME AS FOR BURGLARY AND MANY OTHER CRIMES. THE TRUTH REMAINS THAT THE MAJORITY OF SEXUAL ASSAULTS WILL NOT BE REPORTED AT ALL.

In order for law enforcement to conclude that a case is a false report rather than a recantation, **evidence other than simply the victim's recantation should exist.** Police Departments should be able to pinpoint several inconsistencies and evidence to the contrary of the initial allegation in order to conclude that the report is false. If the only indication that the victim was not truthful in the beginning is that the story is being recanted, the police department should not automatically conclude that the initial report is false.

When law enforcement encounters a recanted account of a sexual assault, support for the victim is still necessary. The victim should be referred to the crisis center. Crisis center advocates can be invaluable in providing the support and understanding that the victim needs in order to reduce recanting.

Officers should keep in mind that recanting might occur for several reasons. Some examples are:

- The fear of being re-traumatized by the system.
- The possibility that the suspect has threatened the victim (witness tampering).
- Pressure from friends and family not to follow through with the process.
- Negative effects on the victim's marriage or other relationships may have resulted from the disclosure. The victim may recant to try and reverse those negative effects.
- Lack of faith that a successful prosecution will take place.

It is important to realize that a recantation of an account does not mean that the allegations made in the initial disclosure never took place.

SUPPORT SERVICES

THE ROLE OF THE CRISIS CENTER ADVOCATE

Immediate inclusion of crisis center advocates is recognized as a crucial service for the victim and the community. There are thirteen crisis centers that provide 24 hour, free, confidential, emotional support and services to victims of sexual assault.

For a sexual assault victim, being at the hospital or involved in the criminal justice system can be extremely difficult. Crisis center advocates provide victims with emotional support, information and referrals. Victims are usually more cooperative and better able to assist law enforcement when they feel supported, believed, and safe.

Advocates offer victims a support person whose only goal is to help them make decisions about what has and is happening to them. The role of the advocate is to provide support and information, and then to support the victim in whatever she chooses to do. Advocates are trained on the sexual assault medical examination and the criminal justice system. They can give sexual assault victims complete information, so that they are aware of their options and can make informed decisions.

Crisis center advocates are not a part of the criminal justice system. It is not the advocate's goal to find out the details of what happened to the victim. The information discussed between victim and advocate is focused on the victim's feelings and emotional needs. While advocates do not solicit details, they periodically hear specific information about the assault. Police should be assured that the sole purpose of the advocate is to support the victim's efforts to articulate emotional concerns.

Sexual assault victims seeking support from a crisis center advocate have privileged communication under NH RSA 173-C. This statute prohibits advocates from disclosing any information shared by the victim without a waiver or release. In order to be covered under the Confidential Communications statute, each of the advocates has completed a minimum of 30 hours of training through one of the 14 bona fide Crisis Centers in New Hampshire.

Because there is no time frame on the healing process, crisis center advocates provide support not just at the hospital or police station, but in the weeks or months that follow. The advocate who supports the sexual assault victim through the criminal justice system sets up the necessary relationship and access to 24-hour support and information.

THE ROLE OF THE VICTIM/WITNESS ASSISTANCE ADVOCATE

The role of a victim/witness advocate is to provide support, information and referrals to sexual assault victims once an arrest has been made and the case has been sent to the County Attorney's Office for possible prosecution. Unlike the crisis center advocates who are not a part of the criminal justice system, victim/witness advocates are part of the prosecution team and do not have a confidentiality privilege. They provide services through the criminal, not the civil, process. A victim/witness advocate's role is to ensure that the rights of victims of crime are protected, and that they are treated sensitively and fairly throughout the often confusing and frightening criminal justice process. The goal of the program is to reduce the impact that crime and the resulting involvement in the criminal justice system has on the lives of victims and witnesses. Advocates also promote victim rights through public awareness and training.

There are 13 Victim/Witness Assistance Programs in the state that provide services to victims of felony crimes: one within the Attorney General's Office who provides services in all

of the state's homicide cases; one in each of the County Attorney's Offices who provides services to victims of all other felony crimes, including sexual assault; and one within the Department of Corrections who provides post sentencing services, including support and notification. See Appendix C. The New Hampshire Crime Victims Bill of Rights, RSA 21-M: 8-k, assures victims of crime certain rights and services. See Appendix L. Victim/Witness Advocates are available to provide support and assistance through the entire criminal court process and to ensure that those rights are protected.

Services provided by the victim/witness advocate include:

- Orientation to the criminal justice system, including courtroom tours.
- Case status information.
- Notification regarding court dates, motions filed, court rulings, bail and bail restrictions, dispositions, appeals, and parole hearings.
- Emotional support and accompaniment during courtroom testimony.
- Information and consultation regarding possible witness tampering.
- Assistance in obtaining witness fees.
- Referrals for mental health treatment and other needed services.
- Assistance with compensation claims to the Victims' Assistance Commission.
- Information on restitution and other forms of financial entitlements.
- Assistance with property return.
- Employer, school, landlord, and creditor intercession services.
- Victim/witness waiting and reception areas separate from defendant's areas.
- Information on the victim's rights to have input in sentencing:
    - Victim impact statements
    - Courtroom testimony
    - Testimony at parole hearings.

In addition, victim/witness advocates advise victims of their right to seek restitution, to submit victim impact statements at sentencing, and to appear at sentencing. Advocates also provide assistance to victims and parents who wish to contact the parole board regarding the eventual release of the defendant.

NEW HAMPSHIRE VICTIMS' ASSISTANCE COMMISSION

Victims of sexual assault may also be eligible to apply to the New Hampshire Victims' Assistance Commission for compensation of medical/dental expenses, mental health therapy expenses, lost wages, or other out-of-pocket expenses not covered by insurance or other resources available to the victim. The compensation must be directly related to the victim's

condition as a result of the crime. Property losses and pain and suffering are not compensable. In order to qualify, the victim must report the crime to law enforcement. The victim should be told to call **1-800-300-4500** for information about the compensation program.

PAYMENT FOR FORENSIC EVIDENCE COLLECTION

The State of New Hampshire is responsible for the payment of sexual assault medical examinations not covered by medical insurance or other third party payment, when the examination is conducted for the purpose of collecting evidence. In order for victims to qualify under this law, the sexual assault must be reported to law enforcement. If the sexual assault is reported to law enforcement and the victim has no insurance coverage, the bill is sent to the Attorney General's Office for payment.

FOLLOW-UP COUNSELING

Because sexual assault is a violent crime, victims are often left feeling vulnerable, helpless, anxious, or afraid. Long-term counseling, as well as short-term crisis intervention with a therapist or support organization may be needed to help the victim regain equilibrium. Sexual Assault Crisis Centers offer peer support regarding the signs and symptoms of Rape Trauma Syndrome. They will also make referrals to a therapist upon request.

THE VICTIM

SPECIAL CONSIDERATIONS WHEN WORKING WITH VICTIMS OF SEXUAL ASSAULT

THE ADOLESCENT VICTIM

Although this Protocol deals specifically with adult victims of sexual assault, information obtained by investigators may lead to the realization that the victim is, in fact, an adolescent by statute. When this occurs it is important that the investigator follow the guidelines found in the *New Hampshire Attorney General's Task Force on Child Abuse and Neglect's Law Enforcement/DCYF Protocol.*

Adolescence is a difficult period in life. It is a time when individuals are struggling to find their independence and individualism. This is often challenged by extreme pressure to conform and be like one's peers. The human body is going through many physical changes that may be frightening and confusing. Each of these existing issues is compounded when an adolescent is sexually assaulted.

Adolescent victims of sexual assault are one of the most challenging populations to work with, because there are many extenuating circumstances for the professional to handle. Frequently the adolescent has been brought to the hospital or police station by a parent or guardian. This creates an additional challenge for the officer because the parent may also be

traumatized by the victimization of their child. If the adolescent has disobeyed the parent in some way such as breaking curfew, lying about where she was going, or experimenting with drugs or alcohol, this may cause the traumatized parent to in some way blame the victim. This causes additional challenges for the professional, and adds unnecessary pain for the victim.

During adolescence, experimentation with drugs or alcohol is at its height. The adolescent victim of sexual assault who has experimented with drugs or alcohol should be assured that the sexual assault was not her fault, despite any use of these substances.

Many adolescents are sexually active. If parents or guardians are unaware that their child has been sexually active this may present a challenge to the officer. Even if the adolescent has not been sexually active sex may be a very difficult thing for them to discuss in front of a family member. The officer should speak with the adolescent alone and determine whether or not the victim wants the parent/guardian in the room during the interview. The adolescent victim has the right to decide, and such decision should be explained to the parent.

For the adolescent victim of sexual assault who has not been sexually active, the loss of virginity is often an issue of concern. The officer should assure the victim that sexual assault is a crime of violence, and is not a part of a consensual relationship. When the sexual assault involves an acquaintance, discussion should include the concern that the crime is not only a violation of the victim's body but of trust as well.

In cases involving “statutory rape”, the officer should make sure that the adolescent is giving information of her own free will. As mentioned above, parents or guardians traumatized by the victimization of their child may lose focus on the needs of the victim. Power and control has already been taken away from the adolescent victim of sexual assault. It is the officer’s responsibility to allow the victim to regain that loss of control by providing her with as many options, information, and support as possible. Or, an individual age 15 and under may have experienced or believed the sexual contact was consensual and may not see this as a sexual assault, even though she/he does not have legal right to give consent.

Referrals to crisis center advocates who have expertise in the area of sexual assault are vital to the recovery of the adolescent victim.

THE ELDERLY VICTIM

The elderly victim experiences the same humiliation, shock, disbelief, and denial as an adolescent or younger adult. Often, the full impact of the assault may not be felt until after initial contact with physicians, police, prosecutors, and advocacy groups. It is usually when the older victim is alone that she deals with having been violated. Elderly victims become more aware of their physical vulnerability, reduced resilience, and mortality. Fear, anger, or depression can be especially severe in older victims. Often, they are isolated, have no confidante or family, and live on limited incomes.

The elderly tend to be physically more fragile, and injuries from an assault are more likely to be life threatening. In addition to possible pelvic injury and sexually transmitted

infections, the older victim may be more at risk for other physical, tissue or skeletal damage. The assault may also exacerbate any existing illness or injury. The recovery process for elderly victims tends to be lengthier than for younger victims.

Hearing impairment and other physical conditions attendant to advancing age, coupled with the initial reaction to the crime, may render the elderly patient unable to make her needs known. This may result in prolonged or inappropriate treatment. It also is common for responders to mistake this confusion and distress for senility.

Medical and social follow-up services must be made easily accessible to older victims, or they may not be willing or able to seek or receive assistance. The officer should be aware that the perpetrator may be a service provider (in a nursing home for instance) or a family member. **RSA 161-F, Protective Services to Adults (see Reporting Section)** provides protection for incapacitated adults who are abused, neglected, or exploited. This statute applies to any person who is 18 years of age or older and "*who is thought to manifest a degree of incapacity by reason of limited mental or physical function which may result in harm or hazard to himself or others or who is a person unable to manage his estate."* **Any person who has reason to believe that any incapacitated adult falling under this statute has been subjected to physical abuse, neglect, or exploitation must report the abuse to their *local district office of the New Hampshire Division of Elderly and Adult Services.*** See Appendix K for a list of phone numbers for the District Offices and for more information on how to make a report.

For more information call (during business hours):

The Division of Elderly and Adult Services
1-800-949-0470 or (603) 271-4409

When reporting on individuals who live in nursing homes, residential care facilities, or supported residential care facilities, contact:

The Long-Term Care Ombuddsman
1-800-442-5642

Without encouragement and assistance in locating services, many older victims will be reluctant to proceed with the prosecution of their offenders.

THE DOMESTIC VIOLENCE VICTIM

Sexual assault is common in relationships where there is other verbal, emotional or physical violence. Police officers should be aware of this and include questions about sexual assault in domestic violence investigations. Police officers should be aware that the statutes that apply to domestic violence crimes apply in cases of sexual assault by a family or household member of the victim.

THE MALE VICTIM

The number of adult male victims of sexual assault who report the crime or seek medical care or counseling may represent only a portion of those actually victimized. Statistics indicate that at least one in seven boys will be sexually victimized before the age of eighteen. Moreover, statistics regarding male victims may be misleading due to the strong resistance to report assault/abuse.

Men commit almost all reported cases of male sexual assault, and often the victims are young boys or teenagers. However, some perpetrators are women, and some victims are men past their teens.

As with female sexual assault victims, male victims experience fear, anger, and an overwhelming sense of loss of control over their bodies and selves. The male victim may also feel dirty, ashamed, and/or guilty. He may be very embarrassed. His body may have responded sexually to the assault. He may feel particularly disturbed by the fact that he was unable to protect himself from the assault. A male victim may fear that others will discover that he has been sexually assaulted. A male may fear the assault reflects on his identity as a straight or gay person. The officer should remind the male victim that whatever he did to get away or survive was the right thing to do, but not imply or infer that the absence of resistance is inappropriate or indicative of consent.

Sexual assault against homosexual males and men in prison populations may be significantly underestimated and under-reported. In the gay male community, the stigma of reporting and legitimate concerns about discriminatory treatment may contribute to underreporting. Among prison populations, non-disclosure may emanate from concern that correctional officers will not address the issue, or from fear of retaliation by other inmates.

General considerations in working with male victims include:

- Straight, gay and bisexual men may become victims of sexual assault by other men.
- As a group, men do not perceive themselves as potential targets in the same manner that women historically have.
- Men are regarded and usually regard themselves as capable of resisting an attack.
- Male victims frequently do not seek treatment or report assault for fear of being erroneously labeled homosexual or for fear of being negatively judged or disbelieved by the medical system or by police. The victim may be homosexual and may fear being forced to “come out”.
- Male victims of sexual assault often suffer significant physical injury.

Men who experience an erection and/or ejaculation during the sexual assault may be specifically concerned, thinking that these normal physical responses are not possible in the absence of sexual arousal. Some perpetrators want their victim to ejaculate as an expression of the assailant's control, power, and dominance over the victim. Male victims may fear that their perpetrator's ability to elicit ejaculation means that they derived unexpected sexual pleasure from the assault. Maintenance of an open, non-judgmental attitude is important, including not assuming the victim is homosexual or has behaved in some way that provoked the attack.

Officers should help victims recognize that ejaculation can be an involuntary physiological response totally separate from a response to pleasure. It is also just as important for male victims, as it is for female victims, to understand that the assault was not their fault, and that they were victims of a violent crime.

Refer the victim to the local crisis center who has expertise in the area of sexual assault of males, and are vital to assist in the recovery process. All crisis centers provide services and support to men as well as women.

SAME SEX VICTIMS AND GAY, LESBIAN, BISEXUAL AND TRANSGENDER VICTIMS

Male victims of male perpetrators have additional special considerations if the victim is a gay or bisexual male. There are further considerations regarding sexual orientation not only for gay and bisexual male victims, but also with female victims of female perpetrators, lesbian and bisexual female victims, and transgender victims.

Being "outed" is a concern many gay, lesbian, bisexual, or transgender victims have. If the sexual assault is reported, they may fear that their sexual orientation will need to be disclosed to investigators, victim advocates and employees of the legal system. In highly publicized cases, this may mean that the information will appear in the media, and the person may be forced to "come out" to family, friends, and the community.

An individual's reluctance to report sexual assault may also reflect her or his desire to "prove to the world" that gay, lesbian, bisexual, and transgender people can maintain healthy relationships. If a sexual assault occurs within the context of such a relationship, the victim may fear reinforcing stereotypes that same-sex relationships are not as stable and healthy as opposite sex relationships. In some cases, heterosexual friends and family members may be reluctant to provide support, because they lack information and/or appropriate language, or because they fear being labeled as homophobic for challenging the value of the victim's relationship.

Young victims may fear that if they report a sexual assault they are reinforcing stereotypes that gay, lesbian, bisexual, and transgender adults are predatory towards children and teenagers. It is important to note that male and females who sexually assault younger people of the same gender are rarely homosexual in terms of their orientation. Perpetrators are expressing power over the victim, not attraction towards the victim.

Perpetrators freely use sexual orientation as a "reason" for the assault. Many female victims perceived to be lesbian, bisexual, or transgender report that their assailant claimed to be "curing" them by showing them "what they really need," meaning penetration by a man. For the female victim of a same sex assault, the victim faces the assumption that women are not violent by nature, and that the attack was merely a "catfight." Other times, female victims of same sex assaults are told that two women cannot have sex anyway, making a sexual assault impossible.

For many male victims, sexual assault may accompany a "gay bashing." In some cases of gay bashing, male victims are raped or mock raped, genitally mutilated, and urinated on. Because the assault is often about the victim's perceived versus actual sexual orientation, the victim may feel that he or she deserved the assault, or the victim may have to explain why he or she appeared to be gay, lesbian, bisexual, or transgender. In some cases, that means the victims may have to explain why they were in the vicinity of a gay bar, why they were dressed a certain way, etc.

In the case of transgender victims, investigators and service providers should be aware that transgender individuals might be particularly wary of reporting sexual assault. They may be distrustful of police and other public officials and service providers. In some cases, they may not want their biological gender to be revealed, in other cases, they may fear being subjected to the same ridicule and harassment they face on a daily basis.

THE VISUALLY IMPAIRED VICTIM

A victim of sexual assault who is visually impaired or blind may not be able to visually describe their assailant; however, they will probably be able to provide extensive information based on use of other senses (i.e., through touch, smell, etc). Officers should provide any special accommodations that are necessary for the victim. Make sure that the victim has access to any assistive devices, such as a guide dog, cane, or tools for magnification. Officers may need to read the statement aloud to a victim before she can sign it. Copies of reports given to a blind or visually impaired person should be on tape, in large print, or in Braille. Keep in mind that only about 5 – 10% of people who are blind read Braille.

THE PHYSICALLY/MENTALLY DISABLED VICTIM

Criminal and sexual acts committed against persons with disabilities (physical, mental, or communicative) generally go unreported, and seldom are successfully prosecuted. Offenders often are family members, caretakers or friends who repeat their abuse because victims are not able to report the crimes.

The difficulty of providing adequate responses to the sexual assault victim is compounded when the victim is disabled. Some have limited mobility, cognitive defects that impair perceptual abilities, impaired and/or reduced mental capacity to comprehend questions, or limited language/communication skills to tell what happened. They may be confused or

frightened and unsure of what has occurred, or may not understand that they have been exploited and are victims of a crime.

Additional time should be allotted for interviewing victims with disabilities. Improvisations from normal protocol may be necessary in some instances. When working with victims who are physically disabled, consider wheel chairs and other assisting tools as an extension of the person. Care should be given, after gaining permission, when moving and/or touching the victim's assisting tools. Anatomically correct drawings may be used to assist the mentally challenged victim in communication.

Keep the following points in mind when responding to a victim with **physical disabilities**:

- When responding to a report of sexual assault against a person with physical disabilities, take into account mobility, access, and communication: Can the victim get around? Was the access to mobility restored after the attack? Was the access to communication tools restored? Ask the victim what assistance she needs.

- The severity of a physical disability is not reflective of mental impairment.

- Speech impairment does not imply mental impairment. However, an individual may suffer both physical and mental impairments. Find out the victim's mode of communication (e.g. word boards) and use that mode in communicating with the victim.

- A lack of mobility may increase the victim's sense of vulnerability to future sexual assault.

- If the offender is the victim's caretaker, she may feel that no one can be trusted to provide appropriate care, or that access to care may be lost completely.

When working with **mentally impaired** individuals:

- People with mental disabilities are prime targets for sexual assault because of their vulnerability. Reports should not be discounted due to this condition.

- Depending upon the severity of the disability, the victim may not realize that a sexual assault has occurred or understand the consequences of the assault. Someone other than the victim may be the person who called the police.

- A primary issue in responding to sexual assault victims with mental impairment is determining their levels of comprehension and communication.

- Police personnel should not necessarily assume that a person with mental impairment would not make a good witness.

- Victims with mental impairment may be unable to think in the abstract, may not understand terminology used during the interview process, or may answer questions in a way they believe the police want them to answer. It is often useful to utilize similar techniques that you would use in questioning children. The key to meeting the needs of this population is found in the mental maturity, not the chronological age of the victim.

- Whenever possible, officers should try to communicate directly with the victim. However, there may be times when outside advocates are needed to assist with interviews and referrals.

When treating a victim who is mentally incapacitated there is a mandate to report the assault to the local District Office of the Division of Elderly and Adult Services. See Appendix K for list of telephone numbers. Please refer to the above section on *The Elderly Victim* for more information. The same Reporting Statute (RSA 161-F) and telephone numbers apply to any incapacitated victim age 18 or older.

Referrals to specialized support services are particularly necessary for the developmentally and physically disabled. They may need protection, physical assistance, and transportation for follow-up treatment and counseling.

THE HEARING-IMPAIRED OR DEAF VICTIM

When treating a hearing-impaired victim, Section 504 of the Federal Rehabilitation Act of 1973 establishes that any agency (including hospitals and police departments) that directly receives federal assistance or indirectly benefits from such assistance, must be prepared to offer a full variety of communication options in order to ensure that hearing impaired persons are provided effective services. This variety of options, which must be provided at no cost to the victim, includes an arrangement to provide interpreters who can accurately and fluently communicate information in sign language.

- Avoid making assumptions about how hearing-impaired victims communicate. The victim should be asked how they would like to communicate; sign language, lip reading, in writing, or verbally.

- If the victim wears a hearing aid or uses other communication tools, those tools may have been damaged or lost in the assault, and the police officer should consider this. To collect necessary information while helping the victim feel comfortable, non-traditional communication methods may be necessary. The victim's preferred communication mode should be restored as soon as possible.

- While investigating, do not assume that a hearing impaired or deaf person is devoid of all hearing. Even a profoundly deaf person is often able to sense vibrations and tonalities that may aid in gathering information related to the crime.

- It is not appropriate to ask family members to interpret for victims. Family members may also have been traumatized by the assault; a family member may also be the offender.

- Officers should take additional time and be patient during the interview process if a sign language interpreter is used.

- If a statement or interview is written, be aware that the victim may have poor English skills. American Sign Language has a different syntax from spoken English. Use of drawings may be a helpful investigative tool.

- Police officers should be trained in the use of the TDD: where it is and how to use it, so that it can be used in future contacts with a victim or witness who is deaf.

CULTURAL COMPENTENCY

Historically, culture has been identified as a stable pattern of beliefs, values, and norms that are transmitted from generation to generation in an effort to promote successful adaptation. Recently, we have come to understand that culture often refers to shared experiences that have developed in relation to changing social or political contexts. These contexts are often based on race, ethnicity, sexuality, religion, age, class, immigration status or disability to name a few.

Cultural Competency is about individual as well as institutional practice, and should be characterized by the acceptance of and respect for differences; it is complex, fluid and always changing. Because of this, achieving cultural competency is challenging and continual. It is important that sexual assault investigators be knowledgeable in cultural competency issues as these issues may greatly impact their investigation.

People of different cultures often respond in different ways to sexual assault. In some cultures, it is prohibited to speak about sexuality, and those victims may have extreme difficulty reporting details of the assault. In other cultures, it is a sign of disrespect to look someone in the eyes. This reaction may create a false impression that the person is lying or being evasive to the interviewer. Police departments should strive to have their officers trained in cultural competency.

Training in cultural competence includes continuous self-assessment regarding culture with special attention being paid to the respect for the dynamics of difference. Competence can be seen when there is adaptation on the part of the investigating officer to meet the diverse needs of his victim.

- Be aware of your own biases, prejudices and knowledge of a person
- Do not make assumptions based on appearance
- Be aware of access to services
- Do not assume people have resources
- Recognize your professional power and avoid imposing your own values
- Listen to the victim

- Use appropriate language

Be aware that English may not be the victim's primary language and that appropriate language interpreters should be contacted if needed and available. Family members should not be used as interpreters due to their relationship to the victim. If the investigator does not have access to an interpreter, AT&T Language Line® Service offers over-the-phone interpretation from English to 140 languages, 24 hours a day, 7 days a week. All crisis centers in the state have access to the Language Line as well.

CONCLUSION

Sexual assaults are among society's most heinous crimes. The public has placed a great emphasis on the need for law enforcement to identify, apprehend and prosecute sexual offenders. Law enforcement officials, health care professionals and victim advocate groups have joined forces and have adopted a proactive approach toward the investigation, prosecution, and treatment of sexual assault. The creation of this Investigative Protocol for law enforcement personnel is one part of a comprehensive plan to combat of sexual assault, and to ensure consistent, sensitive, and compassionate treatment for victims.

APPENDICES

APPENDIX A

SEXUAL ASSAULT PROTOCOL/EVIDENCE COLLECTION KIT AND DOMESTIC VIOLENCE PROTOCOL STATUTE

NH RSA 21-M: 8-c ***Victim of Alleged Sexual Offense***. If a physician or a hospital provides any physical examination of a victim of an alleged sexual offense to gather information and evidence of the alleged crime, these services shall be provided without charge to the individual. Upon submission of appropriate documentation, the physician or hospital shall be reimbursed for the cost of such examination by the department of justice to the extent such costs are not the responsibility of a third party under a health insurance policy or similar third party obligation. The bill for the medical examination of a sexual assault victim shall not be sent or given to the victim or the family of the victim. The privacy of the victim shall be maintained to the extent possible during third party billings. Billing forms shall be subject to the same principles of confidentiality applicable to any other medical record under RSA 151:13. Where such forms are released for statistical or accounting services, all personal identifying information shall be deleted from the forms prior to release.

21-M: 8-d ***Standardized Rape Protocol and Kit and Domestic Violence Protocol***. The department of justice shall adopt, pursuant to RSA 541-A, and implement rules establishing a standardized rape protocol and kit and a domestic violence protocol to be used by all physicians or hospitals in this state when providing physical examinations of victims of alleged sexual offenses; and alleged domestic abuse, as defined in RSA 173-B:1.

APPENDIX B

SEXUAL ASSAULT CRISIS CENTERS STATE OF NEW HAMPSHIRE

NEW HAMPSHIRE SEXUAL ASSAULT HOT-LINE: 1- 800 –277-5570

These centers provide the following free, confidential services to victims of sexual assaults:

- *** 24 Hour Crisis Line**
- *** Court Advocacy**
- *** Emotional Support**
- *** Medical and Legal Options and Referrals**
- *** Peer Counseling and Support Groups**

RESPONSE to Sexual & Domestic Violence
C/o Coos County Family Health Service
54 Willow Street
Berlin, NH 03570
1-800-852-3388 (Crisis line)
752-5679 (Berlin Office)
237-8746 (Colebrook Office)
788-2562 (Lancaster Office)

Women's Supportive Services
11 School Street
Claremont, NH 03743
1-800-639-3130 (Crisis line)
543-0155 (Claremont Office)
863-4053 (Newport Office)

Merrimack County Rape and Domestic Violence Crisis Center
PO Box 1344
Concord, NH 03302-1344
1-800-852-3388 (Crisis line)
225-7376 (Office)

Starting Point: Services for Victims of Domestic and Sexual Violence
PO Box 1972
Conway, NH 03818
1-800-336-3795 (Crisis line)
356-7993 (Conway Office)
539-5506 (Ossipee Office)

Women's Crisis Service of the Monadnock Region
12 Court Street
Keene, NH 03431-3402
352-3782 (Crisis line)
532-6800 (Jaffrey Office)

New Beginnings
A Women's Crisis Center
PO Box 622
Laconia, NH 03246
1-800-852-3388 (Crisis line)
528-6511 (Office)

Women's Information Serv. (WISE)
79 Hanover Street, Suite 1
Lebanon, NH 03766
448-5525 (Crisis line)
448-5922 (Office)

The Support Center Against Domestic Violence and Sexual Assault
PO Box 965
Littleton, NH 03561
1-800-774-0544 (Crisis line)
444-0624 (Littleton Office)
747-2441 (Woodsville Office)

YWCA Crisis Service
72 Concord Street
Manchester, NH 03101
668-2299 (Crisis line)
625-5785 (Manchester Office)
432-2687 (Derry Office)

Rape and Assault Support Services
PO Box 217
Nashua, NH 03061-0217
883-3044 (Crisis line)
889-0858 (Nashua Office)
672-9833 (Milford Office)

Task Force Against Domestic and Sexual Violence
PO Box 53
Plymouth, NH 03264
536-1659 (Crisis line)
536-3423 (Office)

Sexual Harassment and Rape Prevention Program (SHARPP)
UNH, 202 Huddleston Hall
Durham, NH 03824
862-3494 (Office and crisis line)

Sexual Assault Support Services
7 Junkins Avenue
Portsmouth, NH 03801
1-888-747-7070 (Crisis-toll free)
436-4107 (Portsmouth Office)
332-0775 (Rochester Office)

APPENDIX C

NEW HAMPSHIRE VICTIM/WITNESS ASSISTANCE PROGRAMS

State Office of Victim/Witness Assistance
Attorney General's Office
33 Capitol Street
Concord, NH 03301
271-3671

Belknap County Victim/Witness Program
Belknap County Superior Courthouse
64 Court Street
Laconia, NH 03246
527-5440

Carroll County Victim/Witness Program
P.O. Box 218
Ossipee, NH 03864
539-7769

Cheshire County Victim/Witness Program
P.O. Box 612
Keene, NH 03431
352-0056

Coos County Victim/Witness Program
149 Main Street
P.O. Box 366
Lancaster, NH 03584
788-3812

Grafton County Victim/Witness Program
RR 1, Box 65E
Grafton County Courthouse
No. Haverhill, NH 03774
787-6968

Hillsborough County Victim/Witness Program – Northern District
300 Chestnut Street
Manchester, NH 03101
627-5605

Hillsborough County Victim/Witness Program - Southern District
19 Temple Street
Nashua, NH 03060
594-3256

Merrimack County Victim/Witness Program
4 Court Street
Concord, NH 03301
228-0529

Rockingham County Victim/Witness Program
P.O. Box 1209
Kingston, NH 03848
642-4249

Strafford County Victim/Witness Program
P.O. Box 799
Dover, NH 03821-0799
749-4215

Sullivan County Victim/Witness Program
Sullivan County Attorney's Office
14 Main Street
Newport, NH 03773
863-8345

Victim's Compensation Commission
NH Attorney General's Office
33 Capitol Street
Concord, NH 03301
271-1284
1-800-300-4500

NH Department of Corrections
Victim Services Unit
PO Box 1806
Concord, NH 03301
271-1937

NH State Police-Family Services Unit
Department of Safety
10 Hazen Drive
Concord, NH 03305
271-2663

United States Attorney's Office
District of New Hampshire
James C. Cleveland Federal Bldg.
55 Pleasant St., Suite 312
Concord, NH 03301
225-1552

APPENDIX D

VICTIM RESPONSE TO SEXUAL ASSAULT - CRISIS STAGE

A victim recovering from rape goes through different stages of recovery with different coping strategies at each stage, which may affect her or his ability to cooperate with helping professionals. It is essential for those working with a victim of sexual violence to understand these stages and to direct their helping approach to the victim's stages of recovery.

Sexual assault is a total and terrifying invasion of the victim's physical, emotional, and spiritual integrity. Throughout the attack, the victim may be grappling with the belief that she will be killed. Sexual assault shatters the victim's vision of the world as a safe place. It destroys the victim's belief that she has control over her life; that she is a person whose needs and wishes are worth respecting. This is especially true if the victim knew the attacker.

The reaction of the sexual assault victim will depend partly on the person's usual coping strategies for handling trauma and partly on her personality. The most common victim reactions, which are understood as Rape Trauma Syndrome, include:

1. ***Controlled Response*** - This coping strategy is manifested by outward calm. The victim may show little emotion and appear withdrawn. The victim may avoid eye contact and have difficulty responding to questions. This may be a temporary phase or the usual way that stress is handled.
2. ***Visibly Upset*** - The victim may exhibit fearfulness, shaking, uncontrollable sobbing, or other manifestations of trauma.
3. ***Sarcastic Response*** - The victim may smile or laugh at what seems inappropriate at times. This type of behavior is not an uncommon reaction to extreme trauma and does not mean that the victim has not been deeply affected by the assault.

Anyone working with a victim of sexual violence must be non-judgmental in responding to the various strategies the victim may use in coping with the trauma immediately after that assault.

Additionally, the victim's crisis state may lead to an inability to make decisions. This may result in delayed reporting or in the victim not pursuing avenues of escape, which might be apparent to the outside observer. The victim may also be ambivalent about prosecution. Many victims are unable to recall details of the assault.

A victim may attempt to cope by engaging in routine behaviors immediately after the assault. The person is trying to believe that life has returned to "normal." For example, a woman who is raped may proceed to go to work or to school. This is an attempt to reassure ones-self that the world is still the same and that the assault did not destroy the victim's life. It may also be an attempt to regain a sense of control over one's own life.

A victim who is experiencing Rape Trauma Syndrome may become less cooperative when entering the "adjustment phase." In this phase, the victim tries to pretend everything is normal, will deny that the assault is having effects, and will exhibit a reluctance or refusal to talk about the assault. Because the "adjustment phase" occurs sometime after the assault (usually 2-6 weeks) you may find a formerly cooperative victim who now does not keep appointments or return phone calls.

No one victim will display all of the emotional or physical responses that are part of the Rape Trauma Syndrome. Individual victims tend to have several of the responses depending on their own psychological profile. How long a victim exhibits these responses also depends on the individual. The victim's psychological responses can either help or hinder the investigation.

Taken from: *The Illinois Sex Crimes Investigation Law Enforcement Manual*

APPENDIX E

SPECIAL ROLE OF THE FIRST RESPONDER IN SEXUAL ASSAULT INTERVENTION

1. Victims of criminal sexual conduct may experience intense physical and emotional trauma. Sexual assault investigations must focus on the care of the victim first and the investigation second. The first contacts after the assault are critical to the victim's recovery and dramatically impact on the victim's ability to accept and respond positively to continued investigative efforts.

2. The medical evidentiary examination should not be delayed by a lengthy interview. Where practical, the responding officer will transport the victim to a medical facility for the medical examination and the collection of evidence. The victim should be advised to bring a change of clothing, as the clothes are likely to be entered into evidence. Hospitals should have sweat suits available so no patient would need to leave the hospital in a gown. Clothes should be individually placed in clean, dry paper bags.

3. Victims may have aversion to touch. Sexual assault is an intrusive experience that leaves people feeling violated and out-of-control. Minimize the amount of touch and moving when transporting a victim.

4. Speak softly and gently. Forceful and aggressive actions can intensify anxiety.

5. Communicate an attitude of acceptance and caring. Be non-judgmental. Emphasize that you are there to help.

6. Victim may be fearful of males, especially if all initial responders present are male. The victim may have a strong reaction to medical or police personnel that physically resemble the offender.

7. Victims may display a variety of reactions -- crying, laughing, shaking, anger, silence, etc. They may rock back and forth or appear catatonic.

8. If a victim is hyperventilating, talking fast, out of breath, or over-agitated give reassurances of safety. Have the victim work at gaining control of breathing.

9. Victim may be numb and show little emotion.

10. Victim may be angry with everyone, especially if intoxicated. Give the victim the opportunity to ventilate. Avoid a defensive posture. Remind the victim that you are on her side and want to help. Redirect and focus anger on the attack and the offender.

11. Victims may have a strong desire to clean up. Explain why it is imperative that she NOT wash her hands, brush teeth, shower, bathe, or douche even if she is adamant about not wanting to report and press charges.

12. Confidentiality is imperative. Do not give an individual's name as a sexual assault victim over the radio when transporting, since this can be heard on police scanners in the community.

13. Assess impact of partners, friends, family members (allies) on the victim. If they are causing further trauma for the victim, it may be necessary to separate them.

14. Victims may be regressed and appear childlike and may be passive and overly compliant. Encourage the victim to make small decisions as a way of helping her regain control. Do not start making all the decisions for the victim and explain to the allies why they too need to allow the victim to make choices.

15. Do not press the victim to reveal details of the assault that are not necessary in order to take an initial report or to treat immediate medical problems.

16. Remember that medical and police responders are symbols of authority in society and their acceptance or rejection can dramatically influence the victim's self-perception and willingness to reach out for subsequent help.

17. Inappropriate comments can trigger the defense mechanism of repression. If the victim feels she is being judged or misunderstood, she will resist dealing with the assault and will consciously or unconsciously be unable to remember what happened when the assault occurred, what the assailant looked like, etc.

18. Treatment that is too clinical, impersonal, or businesslike may be re-victimizing by making the victim feel like an object or just another case devoid of feelings and needs.

19. Because the victim is in crisis, it is necessary to speak clearly and concisely in simple sentences. Ask the victim if she understands what was said. Do not overwhelm the victim with information. Focus on one problem or concern at a time.

20. Assure the victim that she is not alone and that there are people who will understand and help her/him get through this. Stress importance of Advocate/Officer team.

21. Costs of the evidentiary examinations are usually covered by insurance. If an individual does not have insurance and has reported the crime to law enforcement, the bill will be sent to the Attorney General's Office for payment. Other expenses may be eligible for reimbursement under insurance, crime victim's compensation, or Medical Assistance.

22. Sexual assault is a crime and responding to the victim in a house or residence where the assault occurred requires special care that the crime scene is not disturbed.

23. Be alert to the possibility that an assault has occurred in a situation such as domestic abuse where the victim may be reluctant to disclose that a sexual assault accompanied the violence. Indicators of this can include the victim sharing feelings of guilt, confusion, and especially feelings of being dirty and violated.

24. Victims of sexual assault are often reluctant to disclose the details of the sexual assault and may not tell you that they were actually sexually assaulted or forced to perform various sexual acts unless directly questioned as to whether these things occurred.

25. If a victim is extremely upset and agitated when reporting incidents of indecent exposure, harassing phone calls, be aware of the possibility that the victim may be too embarrassed, fearful, and distrustful to tell you that other acts of criminal sexual conduct also took place. You will need to first attend to the victim's comfort and develop trust and rapport before asking if anything else happened.

APPENDIX F

BASIC DO'S AND DON'TS WHEN WORKING WITH SEXUAL ASSAULT VICTIMS

DO:

- *MAKE SURE YOU UNDERSTAND YOUR OWN ATTITUDES AND FEELINGS ABOUT SEXUAL ASSAULT*
- *LET THE VICTIM KNOW YOU BELIEVE HER*
- *LET THE VICTIM KNOW YOU UNDERSTAND THE REALITY OF SEXUAL ASSAULT*
- *LET THE VICTIM KNOW THEY SURVIVED, AND THAT IS NOT FAILURE BUT SUCCESS*
- *ENCOURAGE THE VICTIM TO MAKE HER OWN DECISIONS*
- *LET THE VICTIM CRY, YELL OR TALK*
- *LISTEN*

DON'T:

- *DO THINGS FOR THE VICTIM WITHOUT ASKING HER FIRST*
- *GET ANGRY WITH THE VICTIM*
- *BLAME THE VICTIM*
- *BOSS THE VICTIM AROUND*
- *RANT AND RAVE AT THE OFFENDER*
- *TRY TO MAKE THE VICTIM BELIEVE THE SEXUAL ASSAULT WASN'T SERIOUS*

APPENDIX G

POST RAPE TRAUMA SYNDROME: EMOTIONAL STAGES COMMON TO A SEXUAL ASSAULT VICTIM

I. **FIRST STAGE** - Acute stage immediately following a sexual assault

A. Generally characterized by disorganized thinking with a dominant feeling of fear. Other common emotions include shock, disbelief, dismay, humiliation, or embarrassment.

B. **MAY** exhibit any of the following behaviors:

1. Difficulty sleeping
2. Loss of appetite
3. Upset stomach or stomach pains
4. Desire to always be alone or to always be with someone
5. Sobbing
6. Restlessness
7. Tension headaches
8. Anger
9. Complete calm

II. **SECOND STAGE** - Pseudo Adjustment

A. Victim is no longer in acute stage and must now attempt to adjust to the fact she has been sexually assaulted.

B. Victim behaves outwardly as though everything is normal, but, in reality, she may exhibit any number of behaviors, such as:

1. Nightmares in which the victim either relives the sexual assault or seeks revenge on the rapist
2. Loss of appetite
3. Becomes panicky by small events such as simply bumping into a male
4. Constantly wants to change phone numbers

III. **THIRD STAGE** - Integration and Resolution Stage

A. Stage begins when victim develops an inner depression and feels the need to talk

B. Victim comes to realistically accept the event and to resolve her feelings about the assailant.

C. Some people reach the third stage in a day or two and some never reach it. Those who never reach it may suffer severe psychological problems, which could result in institutionalization.

Note: There are no "typical" behaviors for rape victims. One victim may be crying uncontrollably, rocking back and forth, appear in shock, be unresponsive, etc., while another is calm and subdued.

Note: Research indicates that male victims also go through the same three emotional stages as female victims.

Taken from: *The Illinois Sex Crimes Investigations Law Enforcement Manual.*

APPENDIX H

SYMPTOMS REPORTED BY SEXUALLY ASSAULTED PATIENTS

The somatic symptoms physicians are most likely to note in Emergency Department or later in primary care settings may include:

- Increased autonomic, phasic, and chronic sensitivity to light.
- Sound
- Touch
- Temperature
- Taste and proprioception
- Skipping or racing heart
- Dizzy spells
- Headache
- Muscle tension in the neck and head
- Faintness and light headedness
- Chest pressure
- Smothering or choking sensation
- Lump in the throat
- Tingling or numbness in the hands, arms, feet, and face
- Nausea or vomiting
- Diarrhea
- Sweating unrelated to temperature conditions
- Hot flashes or chills
- Shaking or trembling of the hands and legs
- Rashes resulting from excessive sweating
- Hyperventilation resulted from repeated yawning and sighing
- Hyperventilation

Another group of symptoms is related to polarized physiological and perception responses, forming a dichotomous pattern of very blunted or highly attenuated stimulus responses. Patients' clinical descriptions include:

- Speeded up or slowed thoughts and movements
- Intensified or reduced emotions
- Dulled or absent emotions and even calm
- Heightened or dulled perception and mental imagery
- Increased control of movements and thoughts or automatic
- Robot-like movements and thoughts
- Feelings of strangeness/unreality or feelings of familiarity
- Panoramic memory or complete or partial amnesia
- Heightened body awareness or physical detachment and anesthetic response

Patients can also report perceptual and memory experiences that might fall into the category of hallucinations or delusions, possibly indicating a brief reactive psychosis. These include:

- Parts of the body changing in size or shape
- Objects seeming large and close or small and far away
- Experiencing events as being highly vivid
- Accompanied by the ability to recall them in exact detail
- Disbelief regarding the incident
- Accompanied by the claim that events had a dream-like and unreal quality

Most people equate trauma with physical wounds and injuries that require prompt and specific medical attention. Added to these physical injuries is psychic trauma, defined as an "upsetting experience precipitating or aggravating an emotional or mental disorder." Understanding physiological trauma as a medical disorder improves diagnosis and may diminish the medical, psychiatric, and social complications that result when psychological trauma is unrecognized and untreated.

The majority of patient difficulties resulting from sexual assault fit into the broad category of psychological trauma/psychiatric disorders. The Diagnostic and Statistical Manual, 4th Edition, places these difficulties under Post Traumatic Stress Disorder (PTSD) and Acute Stress Reaction Disorder. However, it is recognized that a high rate of co-morbid disorders resulting from catastrophic events can occur, including Somatization Disorder, depressive disorders, and a range of anxiety disorders, including Generalized Anxiety Disorder, panic disorder, and phobia.

Symptoms of Post Traumatic Stress Disorder (PTSD) may include:

- Intrusive recollections of the assault
- "Waking flashbacks," experienced with an intense sense of reality
- Dreams of the assault
- Intense psychological and physiological distress, provoked by the internal and external cues that remind the patient of the attack
- Physiological over-reactivity, including exaggerated startle response
- Avoidance of discussing the attack
- Avoidance of places, people, or things that recall the attack
- Feeling of being apart from other people or that there is no future
- Anhedonia, insomnia, irritability and trouble concentrating

The etiology of all trauma-based illness is a catastrophic event that creates an inescapable and overwhelming stimulus response. Survivors of trauma have experienced an event that is so overwhelming as to be life changing -- physically, cognitively, and emotionally. The event has such physiological and psychological intensity that it overrides or impairs the individual's neuro-physiological mechanisms of adaptation. The resulting damage is not merely emotional. The person's biological capacity to tolerate and regulate internal and external stimulation can be altered. These changes, in turn, compromise the person's ability to organize perceptual stimuli and cognitive information, making them susceptible to a range of somatic illnesses and a spectrum of anxiety and depressive disorders.

Trauma-based illness is best viewed as an ongoing syndrome with acute, subacute and chronic presentations. Like other chronic illnesses, PTSD may have delayed onset, variable, and disguised presentations, go into remission, have episodic exacerbations, or require ongoing management.

Sexual assault is one of the most significant traumatic incidents. The person endures an event that is outside their control, evoking feelings of such intensity that they literally fear imminent death and/or disfigurement. Adult survivors often recount a combination of blunted and heightened stimulus responses or symptoms.

This symptomatology represents the two extremes of human biological responses -- hyperarousal often include:

- Nightmares
- Difficult falling asleep or staying asleep
- Nausea
- Irritability or outbursts of anger
- Difficulty concentrating
- Hypervigilance and exaggerated startle responses

Persistent clinical signs and symptoms of constriction include blunted emotions or numbing, paresthesia dissociation-like perceptions of depersonalization and derealization and a range of avoidance behaviors.

Taken from: *The American Medical Association,*
S*trategies for the Treatment and Prevention of Sexual Assault*

APPENDIX I

COMMON MYTHS AND MISCONCEPTIONS

MYTH: Sexual Assault is motivated by sexual desire.

FACT: Sexual Assault is a crime of violence, motivated by anger and the desire for power and control.

MYTH: Real sexual assault only happens when a stranger attacks a woman.

FACT: Most sexual assaults are committed by someone known to the victim.

MYTH: Some women and men have sexual assault fantasies, and sometimes they come true.

FACT: Some people do have fantasies about being overcome or abandoning themselves with their partner. These fantasies differ from sexual assault in that the person has mental control over the beginning and end of the scenario and can safely abandon inhibition, rather than having them overridden.

MYTH: Wives can't be sexually assaulted by their husbands.

FACT: Wives can be legally sexually assaulted by their husbands. Furthermore, those women who are sexually assaulted by their husbands are vulnerable to being sexually assaulted on more than one occasion as part of ongoing domestic violence. Physicians who serve culturally diverse populations, may wish to consider that some cultural backgrounds increase a woman's vulnerability to assault by a husband.

MYTH: Men can't be sexually assaulted, especially by women. If the man does not have an erection, it can't happen.

FACT: Men are sometimes sexually assaulted by women. Women who assault men frequently rely on intimidation and threat of violence, rather than physical force. Examples are male students and female teachers, male patients and female therapists, male employees and female supervisors. Penile erection can occur in response to extreme emotional states, such as anger and terror, as well as to sexual arousal.

MYTH: Women "cry rape" after consenting to sex and later changing their minds.

FACT: False accusations of sexual assault have been estimated to occur at the rate of 2% -- similar to the rate of false reporting by men and women for their violent crimes. It is far more common for victims of sexual assault not to report the crime to anyone.

APPENDIX J

SEXUAL ASSAULT AND NON-PRESCRIPTION DRUGS KNOWN AS "RAPE DRUGS"

ROHYPNOL

Rohypnol is a benzodiazepine like the tranquilizer Valium, yet it is 10 times more potent. Rohypnol produces profound, prolonged sedation, a feeling of well being and short term memory loss. Sedation occurs 15 to 20 minutes following the administration of just 2 milligrams of the drug and lasts from 24 to 40 hours.

The drug is used widely in Europe, Mexico, and South America for the treatment of severe sleep disorders but has never been approved by the Food and Drug Administration for medical use in the United States. Since March of 1996, US Customs has made it illegal to bring this foreign-based drug prescription into the country.

In the United States, Rohypnol is commonly found in its .5 or 1 mg small round tablet form, or as a powdered substance, or rarely in a 2-mg/mL solution that can be injected. The drug is usually brought illegally into the country from Mexico to Texas or from Columbia into Florida. From these locations the supplies of Rohypnol are trafficked to street dealers and college towns throughout the country. Some common street names for Rohypnol include: "roofies", "roopies", "roches" and "the forget pill".

GHB

GHB has never been approved by the Federal Drug Administration. It is made from ingredients commonly found in health food and chemical supply stores. Even though it is illegal in the United States, it is still being clandestinely made and dispensed at nightclubs and elsewhere. GHB is sometimes used by athletes because it promotes the release of growth hormones. Like Rohypnol, GHB creates deep sedation quickly.

Street names are "liquid x", "salt water", "grievous bodily harm", or "easy lay". GHB in its most common form is a clear liquid, but may also come in a powdered form. Side effects include nausea, vomiting, headaches, memory loss, and respiratory problems. Effects appear within 15 minutes of ingestion and last 4 hours.

KETAMINE

Ketamine hydrochloride is marketed in the United States as a general anesthetic for use in human and veterinary medicine. Ketamine, or "Special K" as it is known on the street, is becoming increasingly popular among teenagers and is commonly encountered at "Rave" parties. Ketamine powder appears to be snorted like cocaine, consumed in beverages or is smoked. The liquid form of Ketamine is injected, applied to smokable material or added to a drink. Ketamine produces effects similar to those produced by PCP or LSD but of shorter duration. Higher doses may result in dizziness, mental confusion, catalepsy (the inability to move), amnesia, hallucinations and psychosis. It is these behavioral effects that have lead to the use of Special K as a date rape drug.

APPENDIX K

PROTECTIVE SERVICES FOR ADULTS - MAKING A REPORT

MAKING A REPORT

The report is the first critical step in providing protection. A report may be made by telephone, in writing, or in person.

• • • For individuals who live in nursing homes, residential care facilities, or supported residential care facilities, contact:

The Long-Term Care Ombudsman
129 Pleasant St.
Concord, New Hampshire 03301-3857
1-800-442-5640

• • • For individuals who live in their own homes or apartments, with relatives or friends, in a boarding home, or who have no permanent address, contact the appropriate District Office.

• • • For individuals who live in or participate in, home/programs administered by or affiliated with, the Division of Mental Health and Developmental Services (DMHDS), call the DEAS Central Office at 1-800-949-0470 Ext. 4386

• • • For individuals who are suspected to have been abused, neglected or exploited while receiving care in a community hospital or a rehabilitation center, call the DEAS Central Office at 1-800-852-3345, ext. 4391 or 4744.

NEW HAMPSHIRE DIVISION OF ELDERLY AND ADULT SERVICES DISTRICT OFFICES

Berlin District Office
219 Main Street
Berlin, NH 03570-2411
603-752-7800 or
1-800-972-6111

Littleton District Office
80 N. Littleton Road
Littleton, NH 03561
603-444-8785 or
1-800-552-8959

Claremont District Office
17 Water Street
Claremont, NH 03743-2280
603-542-9544 or
1-800-992-1001

Manchester District Office
351 Lincoln Street
Manchester, NH 03103-4976
603-668-2330 or
1-800-852-7493

Concord District Office
40 Terrill Park Drive
Concord, NH 03301-7825
603-271-3610 or
1-800-322-8191

Nashua District Office
19 Chestnut Street
Nashua, NH 03060
603-863-7726 or
1-800-852-0632

Conway District Office
73 Hobbs Street
Conway, NH 03818
603-447-3841 or
1-800-552-4828

Portsmouth District Office
30 Maplewood Avenue
Portsmouth, NH 03801-3737
603-433-8318 or
1-800-821-0326

Keene District Court
809 Court Street
Keene, NH 03431-1712
603-357-3510 or
1-800-624-9700

Rochester District Office
150 Wakefield Street
Rochester, NH 03867
603-332-9120 or
1-800-862-5300

Laconia District Office
65 Beacon Street West
Laconia, NH 03246
603-524-4485 or
1-800-322-2181

Salem District Office
154 Main Street
Salem, NH 03079-3191
603-893-9763 or
1-800-852-7492

If you are unable to reach the appropriate District Office indicated above, contact the following:

New Hampshire Division of Elderly and Adult Services
129 Pleasant Street
Concord, NH 03301-3857
1-800-949-0470 Ext. 4386
TDD Access: Relay NH 1-800-735-2964

APPENDIX L

NEW HAMPSHIRE CRIME VICTIMS' BILL OF RIGHTS

1. The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.
2. The right to be informed about the criminal justice process and how it progresses.
3. The right to be free from intimidation and to be reasonably protected from the accused throughout the criminal justice process.
4. The right to be notified of all court proceedings.
5. The right to attend trial and all other court proceedings the accused has the right to attend.
6. The right to confer with the prosecution and to be consulted about the disposition of the case, including plea-bargaining.
7. The right to have inconveniences associated with the participation in the criminal justice process minimized.
8. The right to be notified if presence in court is not required.
9. The right to be informed about available resources, financial assistance, and social services.
10. The right to restitution, as granted under RSA 651:62-67 or any other applicable state law, or victim's compensation, under RSA 21-M: 8-h or any other applicable state law, for their losses.
11. The right to be provided with a secure, but not necessarily separate, waiting area during court proceedings.
12. The right to be advised of case progress and final disposition.
13. The right of confidentiality of the victim's address, place of employment, and other personal information.
14. The right to the prompt return of property when no longer needed as evidence.
15. The right to have input in the probation pre-sentence report impact statement.
16. The right to appear and make a written or oral victim impact statement at the sentencing of the defendant.
17. The right to be notified of an appeal, an explanation of the appeal process, the time, place and result of the appeal, and the right to attend the appeal hearing.
18. The right to be notified of and to attend sentence review hearings and sentence reduction hearings.
19. The right to be notified of any change of status such as prison release, permanent interstate transfer, or escape, and the date of the parole board hearing. The victim, through the victim advocate must request this right in writing.
20. The right to address or submit a written statement for consideration by the parole board on the defendant's release and to be notified of the decision of the board. This right must be requested by the victim through the victim advocate.